

Colligio Regina Mon. D.D. Gerardus Langbaine Proprietarius

A *perita de v' lib' Nov.*

REVIEW
OF THE
COUNCELL
OF
TRENT.

H. P. 6

Wherein are contained the severall
nullities of it: With the many grievan-
ces and prejudices done by it to Christian
Kings and Princes:

As also to all Catholique Churches in the
World; and more particularly to the
GALLICANE Church.

First writ in *French* by a learned Roman-Catholique.

Now

Translated into English by G. L. *K.*

HORAT.

Suis & ipsa Roma viribus ruit.



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To the Right VVorshipfull CHRISTOPHER POTTER Doctour in Divinity,
the Reverend Deane of Worcester, and worthie
Provost of Queenes Colledge in Oxford

SIR,



He double title which you may justly challenge both in the Authour and Translatour of this work, hath made this dedication a matter of necessity, not election. For the former, I dare not seem to instruct that knowledge to which I confesse I owe mine. But for the later, I beseech you give me leave to tell you in publique, what I have never blushed to professe in private, of that deep interest which your early favours have purchased in all that I call mine, (except my faults) such and so many as would have left me highly inexcusable if I should have entertain'd a thought of offering these my first fruits in this kinde upon any other altar than this. For, as touching my knowledge (if it be any) in the tongues, the common influence of your examples, and your benigner aspect upon my meane endeavours made me first able to do something, and the desire of obeying your pleasure willing to doe this. I am bold to call it a worke of obedience, as being first occasioned by some speeches, which, however they proceeded from you, were received by me in the nature of a command: your wish in generall that such a thing were done, my obligation made me construe to an injunction of doing it. This put me first upon it, and the reverent opinion of your judgement of the worke, with the grounded confidence of your future approbation of my pains, sweetned that into recreation, which had otherwise beene a punishment. I will

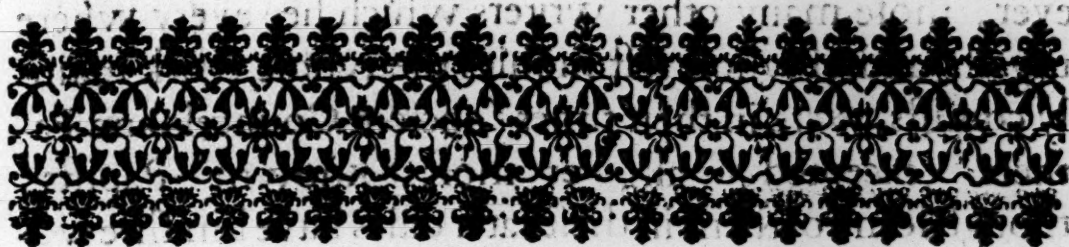
The Epistle Dedicatory.

not here indolge so much to my just ambition of proclaiming your virtues, as to insist upon each particular: only I shall begge leave to bee the weaker echo of the publique voice of that body over which it hath pleased God to make you the worthie Head, and my selfe, by your meanes, an inferiour member: To say, That we largely enjoy in you what wee shall ever pray for in your Successors; that your place may ever have as great an ornament, for the credit, and as happie an instrument, for the profit of our House: That, of those Royall favours which it pleased their Sacred Majesties to conferre upon us, (and ever blessed be their memorie therefore!) though in all humility we give Them the glory of being the Authors, yet we cannot robbe your pious diligence of the praises due as to a principall procurer. We detract nothing from the fountain, when we commend the streams: nor is a benefit lessened by being obtain'd by intercession. The Majestie of Heaven does not ordinarily bestow his blessings without mediation: nor does the intervening of second causes render us lesse engag'd to the first. To whom I doe now, and shall ever, send up my heartie prayers for his choicest blessings upon you and yours: more particularly, (as your present weaknesse now requires me) that Hee would be pleased to grant you a perfect health, and constitution of body answerable to that of your minde, for the greater manifestation of his glorie, the good of his Church, the joy and comfort of you and yours; in which number he desires to be reckoned who here presents himselfe & his present pains to your courteous acceptation, as

Queenes Colledge in
Oxford April 12.
1638.

Your Worships
in all humble
observance,

GERARD LANGBAIN.



To the Reader.



Have something to informe both concerning the Author, the matter, and the translation of this discourse. For the first, that he was a *French* man, and a Lawyer, none will doubt but such as will not read, and that he followed the Court, and was of some eminency there, is sufficiently evident from one * passage of this worke. But as for his religion, though not absolutely certaine, yet, his many protestations make it more than probable he was no profess'd Protestant. Hee protests frequently not to meddle with controversies of faith, but points of Law and policie; not to oppose the Canons, but Decrees of the Council of *Trent*; not to write in behalf of such as have separated from the Church of *Rome*, (Protestants) but of good *Catholiques*; (hee meanes Papists.) And therefore I have adventured to allow him the name of *Catholique*, with the forename *Roman*; which they of that party will, in spite of all contradiction, needs pin upon their owne sleeves. For I am indifferently confident that for outward communion hee was a member of that Church, some of whose faults are here required to a reformation. As for ought that may bee surmis'd to the contrary, it will not worke much upon any that knowes the libertie of that people, who were never throughly broken to the discipline of *Rome*, *iam domiti ut pareant, nondum ut serviant*; and which hath ever bin more eminently conspicuous in those of that faculty wherof the Author is confessedly one. How-

To the Reader.

ever, those many other writers which hee every where
 ureth, and of whose testimonies the whole work main-
 ly consists, were in their times (ancient Councils and Fa-
 thers excepted) all, or most, knowne Papists:
 though some of them in these later daies have bin shrewd-
 ly censured for Schismaticall, because not altogether so
 transcendently Papall. Now for the further satisfaction
 of my selfe and others to those ordinary interrogatories,
 Τις ποθεν ἐστὶν αὐτῶν, ποῦ τοι ἦν ὁ βίος; it hath cost me some diligence to
 draw this *Apelles* from behind the curtaine. Some of my
 forraigne intelligencers return'd me little but a *Non liquet*,
 yet the learned Patron of the work shewed me first where
 it was cited by D^r. *Rivet* under the name of *du Ranchin*;
 and I have found some succenturiating opinions since.
 Now *William Ranchin*, (whom I conceive to be the man)
 was in his time a Doctor of Law, Counsellour to King
 HENRY the fourth of France, sometimes Fiscal Advocat
 in the Court of Aids at *Occa*, and afterwards Atturney Ge-
 nerall in the Sovereigne Court of Aids at *Montpelier*; one
 who by his workes in that kind hath deserved well of his
 profession. Thus much of the Author.

As for the Work it selfe, it is now almost forty yeares
 since it was first published; the copyes are growne very
 rare and (it may be, therefore) deare even in *Paris*: whe-
 ther the love of their friends or the malice of their enemies
 hath made them so, I know not. It does strongly vindi-
 cate the rights of Christian Princes and the liberties of par-
 ticular Churches from the grand and yet growing usurpa-
 tions of Popes, and the bold attempts of pretended Gene-
 rall Councils. It shews the many hot skirmishes which
 Princes have beene put to for the preservation of their li-
 berties, and how loath they were to part with them. It
 points at the meanes whereby the State spirituall stole up
 by degrees to such a height of temporall greatnesse. It un-
 covers the shame of that Popish *Helena*, the Councell of
Trent; by laying open the many nullities and unjust pro-
 ceedings of it. It shewes the weake, the no effects of those
 strong

† In his an-
 swer to Co-
 effeteau, in-
 titled, *Re-
 marques sur
 la response
 au mystere
 d'iniquité*,
 part. 1. Se-
 ction 26.
 num. 33.
 pag. 543.
 Edit. Sal-
 mar. 1620.

strong hopes of a reformation from it: and makes it apparent that what by the patients was so earnestly desired as a remedy, was by the fraudulence of the Physician turn'd to a worse disease. It fairly acquits their rejection of that Council for matter of Discipline, (and why not therein ours for matter of Doctrine?) from the imputation of Schisme, as being driven to the necessity of abrogating that excessive power of the Pope, which hee could not bee brought to moderate: being both forced to shake off that heavy yoke which his ambition was unwilling to remove, so long as our patience was willing to endure. And (though it be besides the purpose, if not against the intention of the Author) it ministers just grounds of questioning the absolute infallibility of Popes and Councils in matters of faith. Who both joyntly and severally (it is to be fear'd) have been too daring to entitle the Holy Ghost to their many weakly probable opinions, if not some errors. Whence it is that the present Church is as much pester'd with a glut of Councils, Canons, and Curses, as the Primitive was with heresies: under the weight of which burthen many weaker consciences, if they doe not quite sinke, cannot chuse but groane. Whence it is that the modest and sober libertie of re-examining any thing which hath been once decided, is utterly excluded: which notwithstanding most good men have in all ages beene willing to tolerate, many to desire, and some few bold to make use of. Amongst these few we may well reckon this Author for one. Far was He from the high uncharitablenesse of those fierce and fiery spirits that scorn to go to Heaven in the company of any that are called heretiques by the Council of Trent: that pronounce upon all men according as they find them devoted to this their *Diana*; making lesse conscience of a text of Scripture than a Canon of Trent; and like their heathen fore-fathers, *Non alios iudices quam seipso patientur*. Lastly, this work presents us with many remarkable passages concerning our own Nation; where we may read our present happinesse in our

To the Reader.

Ancestours miseries: for amongst all those authentique records, which are here recited of the Popes usurpations, I doe not finde any more wofull tragedies of his tyranny than such as were acted upon our Stage. No higher trophyes erected to his ambition, than here. No more rare examples of a devout abused patience, than ours, till extreme necessitie made us despaire into fortitude; when the avarice and exactions of Rome, having left us nothing else, to her griefe and our glory, at last robb'd us of our patience too.

Besides these there are other considerations in the work it selfe, which (it may bee) wrought a far far better judgement than mine owne to the approbation of it. In submission to which I have taken the paines to make it speake *English*; and that's all. For as for the quotations, (which might haply be expected from me) my other imployments would not allow me strictly to examine them all, but so many as I sought did sufficiently confirme my opinion of the Authours fidelity in the rest. For adding more testimonies of my owne out of other authors in the like kinde and to the same effect, however I could frequently have done it, yet I obtained so much of my selfe as to forbear: being much abhorrent from ingaging my selfe in a quarrell of this nature, and creating an adversarie where I might fairely chuse to want one. For my expression, I confesse, upon a second review, I finde I have been somewhere too pedantique and precise in keeping to the phrase of my Authour, and otherwhere I meet with a little *Patavinity* of my owne. But for this I must tell my *Pollio* it was neither necessitie nor chance that cast me upon it; for I am here of his minde, *Qui non ignoravit vitia sua, sed amavit.* My greater feare is lest there be somethings in the matter which may bee lyable to a juster exception. Which, however they might have beene omitted by the Authour, could not so fairely bee left out by the Translator: This castrating of dead Authours being a piece of politique cruelty, which himselve † condemnes in their Church,

To the Reader.

Church, and (I hope) is rarely practised in ours. I doe not deny but here are, amongst many which I could commend, some passages which I had rather excuse: such as need not be approved, yet might well enough bee printed. Wee allow a stranger more libertie than a native: and in this consideration I held it a piece of injustice to offer so much violence to my Authour as to subdue him wholly to our domestique customes. Hee still speaks *French* in part, and retaines a few markes of his birth and breeding: yet such as can bee no eyfore to those that will observe withall, how, when he barely relates the Lawes of his owne Countrey, he neither censures nor sets rules to ours. For what concerne the distinction of jurisdictions, there is a vast difference betwixt their State and ours. Here, though they are conveyed in severall channels, yet they are all derived from the same fountaine, the King. Whereas there, the Pope shares it with the Prince, and not content with his part, will needs ingrosse the whole. Hence those bitter complaints of the Authour against inferior Iudges, which, when he drives the naile up to the head, fasten lastly all upon his Holynesse. Thus farre I thought fit to fortifie against future mistakes; knowing that what was well meant might be ill taken, and that it is not ever in the fates of innocency to bee exempt from misconstruction. For other peccadillos I am not very careful to excuse them; hoping that the judicious Readers will not much bogle at them, and the ordinary (it may bee) never observe them; nor doe I meane they shall bee beholding to me for the knowledge of them further than by this intimation: which perhaps may whet some duller capacities to a sharper enquire after them, such as thinke they are bound in conscience to finde a crime, because I confesse the possibilitie of a fault: and will be ready to straine at Gnats, who without this caution would have swallowed Camels. And yet I feare there will not want some among them that will receive those things with applause, which I desire may passe with pardon.

To the Reader.

pardon. Nay (it may bee) if the Authour were que-
stion'd for some places, the most (I doe not say the best)
would bee content to absolve him, if not ready to reward
him. But the Translator professeth his name in another
cense; and is not so sollicitous to please those, as answere
these: to whose graver judgements hee submits both
himselfe and these his weaker endeavours, in a modest
confidence of their candid interpretation.

As in part, and retains a few marks of his birth and
breeding: yet such as can bee no more to those that will
observe withall, how, when he partly relateth
of his owne Country, the nature of things, and the
state, For hee conceives the distinction of qualities
there is a vast difference betweene their kind and
here, though they are conveyed in the same
they are all derived from the same source, the King
Whence they the more fitly will be of time, and not
content with his part, will needs ignore the whole.

Since this first and principal part of the book is
hardly, though all upon his Majesty. This part I
thought to write against future misuses; knowing
that what was well meant might be ill taken, and that
it is not even the faces of innocency to bee exempt from
misconstruction. For other peccadilloes, as not very rare.

Will to excuse them; hoping that the judicious Readers
will not much bogge at them, and the ordinary may
bee never observe them; nor doe I mean they shall bee
holding to me for the knowledge of them further than
by this intimation: which perhaps may vnderstand
let capacities to a sharper conscience after that, such as
think they are bound in conscience to finde a fault
because I confesse the possibility of a fault: and will
be ready to strive as Gales, who without this caution
would have allowed Canals. And yet I fear there
will not want some among them that will receive those
things with applause, which I desire may passe with
pardon.



AN
ADVERTISEMENT

to the READER, prefixed before
the FRENCH Copie.



His Booke is not for those that have made separation in point of Religion; but for such good Catholiques as desire to see an holy reformation of it. Here you shall finde the demands that were put up to that end at the Councell of Trent, by the Emperour, the King of France, and other Catholique Princes, not Protestants, and the small regard that was had of satisfying them. Here you shall read the tricks that were used both in this and some precedent Councils, to wade that reformation which was so earnestly sought after: and withall you shall understand a good many of the points wherein it consisteth. The method which the Authour hath used, may bee set downe in few words. Hee makes two kinds of nullities; one in the forme and manner of proceeding, [which he delivers in the first Book]: the other in the matter. And these later consist either in denyal of justice [which is handled in the second Book,] Or in the injustice of the Decrees themselves: concerning which he sets downe two maxims. The first, that they advance the Pope to an unlawfull power, stripping Councils, Clergy, yea Kings and Princes of that authoritie which belongs unto them, to transference it upon the Pope; [and this is proved in the third, fourth, fifth and sixth Books]: The second, that they pull downe the honour and authoritie of Christian Princes, and Secular powers: [which is treated of

An advertisement to the Reader, &c.

of in the last Book]. See here the subject wherein many learned men, both Divines and Lawyers have travailed long agoe, before the names of Luther and Calvin, and such as embrace their doctrine, were ever heard of: which doctrine is not here defended, nor shall you find any thing that concernes them in particular. The ancient liberties of the Church are represented here in divers passages, the very same with those that carry now the name of the Gallicane Church; whither they made their retreat when they were chased out every where else: yet not without danger of being lost, and that not in part but in whole, by a blow from Trent. Which would plunge us again into those miseries, wherof our Ancestors begun to bee sensible long agoe: which they have left unto us by tale upon record, in the ancient Histories and Edicts of our Kings, the Rolles of the States General, the Remonstrances of the Courts of Parliament, and many other ancient Monuments. Nor doth it lesse concerne the interest of our Sovereigne Lord the King; whose honour and dignitie are shamefully disgraced, his authoritie vilified, his power rebated; with a generall prejudice to all the French, who in particular are egregiously wronged in divers things, as may be fully knowne from this discourse. You must further observe that the Authour was not willing to meddle with what properly concernes divinitie, as unwilling to transgresse the bounds of his profession, or speake any thing upon this occasion of those demands which were made, by Catholique Princes in this Councell, touching the reformation of abuses about Images, Pilgrimages, Reliques of Saints, keeping of Holy dayes, convenience of the marriage of Priests, Communion in both kinds, celebration of divine service in a vulgar tongue, and such like; contenting himselfe with a bare mention of those demands, and no more.



A
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The Chapters.

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severall

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A



Faults escaped.

<i>pag.</i>	<i>Line</i>	<i>Fault.</i>	<i>Correction.</i>
24.	37.	preceed.	preside.
31.	18.	to staine.	to staine.
40.	36.	Trent.	Tyre.
41.	34.	Rhegno.	Rhegino.
58.	9.	a.	dele.
64.	21.	Holynesse.	Highnesse.
	32.	discords.	disorders.
71.	43.	Of Chartres.	Of the Charterhouse.
et 224.	5.		
75.	24.	Fontanus.	Fontanus hath put.
	marg.	Alberius.	Albericus.
81.	3.	exequeter one yeeros.	exchequer one yeares.
83.	marg.	Valoterran.	Volaterran.
86.	41.	Princes.	Provinces.
94.	33.	this.	in this.
95.	9.	Apostles.	Aposfile.
101.	40.	rank.	instance.
109.	24.	gave.	have.
121.	46.	writ.	went.
122.	53.	Avarus.	Alvarus.
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130.	46.	at.	as.
159.	marg.	Radericus.	Radenicus.
166.	34.	Sifmand.	Sisenand.
187.	10.	Emperour.	Emperours.
191.	27.	assembling.	ascribing to him.
194.	13.	commanded them that.	dele.
222.	22.	to-wit.	dele.
241.	2.	that.	by that.
251.	36.	found.	founded.
253.	26.	blest.	the blessed.
257.	47.	the.	at the.
265.	5.	they an.	the. and.
269.	3.	to Popes.	to the Popes.
278.	16.	Monarchie.	Monarch.
288.	42.	you.	yon.
293.	4.	Doctour.rings.	Doctours.Kings.
	5.	eight.	right.
	33.	were.	they were.
296.	42.	Churches.	clutches.
307.	21.	honour. under.	order. over.
310.	41.	Judges Royal, Ordinaries.	Ordinarie Judges Royall.
314.	7.	confute.	confute it.
323.	23.	the.	dele.
328.	25.	by.	to.
331.	19.	authenthique.	authentique.
335.	14.	by.	ly.
336.	36.	Hugenots.	Huguenots.
367.	20.	Church.	Clergy.
374.	36.	George of.	George. Of.



A
 REVIEW
 OF THE
 COUNCELL
 OF
 TRENT.

CHAP. I.

Of the resistance that hath beene made against such Popes and unjust Councils as tooke too much upon them.



THE Council of *Trent* was called of purpose to reforme those abuses of the Pope and Court of *Rome* which were the occasion of that Schisme under which wee now groane: which have raised all Chriltendome up in armes in these latter dayes, and for the space of two hundred yeares and upwards, in sundry Councils: which Pope *Adrian* did confesse in the Diet at *Noremberg*. and some of which the reformers of *Paul* the third could not deny. But the Popes turned the Cat in the pan, and caried the matter so handsomly, that in stead of a naturall birth, the Councell was delivered of a monster; and for a Canon or Synodicall Decree, brought forth a Papall Bull: in stead of an extirpation of abuses, a nursery of errours: a depravation, for a reformation: a source of injustice: an authentique title to *legitimate* all the usurpations that ever the Popes have made upon the authority of the Church and other Ecclesiastiques; upon Emperours, Kings, and Common-wealths, with their officers, liegemen and subjects: in a word, upon all Chriltendome, with all the Estates therein, as well Temporall as Spirituall. To the holding of this Councell they were in a manner compelled by

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of calling the
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3 Naucerus
Volum. 1 gene-
rat. 48.

violence : for, excepting honest *Adrian*, (who went about it with an upright intention) all therest would gladly have beene fairly quit of it. *Clement* the seventh did openly contradict the proposall of it, which *Charles* the fifth at his coronation caused to be made by his Chancelour at *Bononia* : But the Emperour prosecuting his suit daily with the successours of *Clement* ; they were constrained to make shew of an inclination thereunto : yet so, as they stood a consulting about the calling of it full five and twenty yeares, from 1522. (what time *Adrian* by his Legat at the Diet at *Norimberg* engaged his promise for it) till 1546. still giving out faire pretences, and studying for new occasions to delay it : posting it from one to another, and passing it over as a debt to their successours. Yea and even after they had set about it, they managed it so, that they kept it low, betwixt living and dying for eightene yeeres, taking their time of purpose that they might leuell their stroke right, wherein they have outstript the choicest masters of that art in *Palestine*; they have good reason to understand this passage. Many of their predecessors had left their weapons there; many had received blowes and mortall wounds there. *Germany* was fatall to them, and the remembrance of the Councils of *Constance* and *Basil* madded them; when they thought upon the depofall of so many Popes; the discipline whereto they were made subject; and the cutting short of their power. They had observed the saying of *John* the 23. *The place of the Councell is all in all; I will not have it in a place where the Emperour hath the upper hand* : and the despaire he conceived both of himselfe and his fortunes, when he received the newes that his Legats had condescended to the election of the City of *Constance*. They perceived withall that all *Germany* banded with the Emperour to have the Councell amongst them, and bended all their designs to that end : so that it necessarily concerned them to save themselves by flight; to shuffle on the time; to spin out delayes; to pump for pretences; and in fine, when they could no longer shift it, it was behooffull they should pitch upon some such Citie as would be sure unto them, that depended on them, and wherein they had absolute authoritie. Such, in conclusion, was *Trent* : yea and that after they had made enquiry about some others which (as they conceived) lay more convenient for them in *Italy*. It must be their next care to be speciall warie to what persons they yeeld admittance; to bestow such onely there as were engaged, that so they might make it more firme for them; and proceed now quicke, then slow; now an amble, anon a gallop; holding that course which best fitted with the nature of the affaires, and the disposition of the persons. It behooved them also now and then to breake off and deferre it, and when their partie was somewhat ill at ease, to adjourne it to another place, as as to *Bononia*, under colour of some sorie indisposition of the aire : Besides, to move all Catholique Princes to an utter extirpation of the Protestants, and such as had taken their long leave of the Pope. And if this would not serve the turne, then they must scatter reports amongst the Catholiques themselves, to set them by the eares together, and kindle the fire in all quarters of Christendome; enter league with the stronger partie, to support their greatnesse, and raise it to a higher pitch. They must by all meanes possible winne the Bishops and the rest that had ought to doe in the Councell; feed them fat with promises; present them with commodities, make them joint sharers in their dignities and benefices, and gaine them to their side by such like allurements. Then they must submit themselves to these conditions, Not to determine any thing, but with the good will and pleasure of the Holy See, which, when need required, sent the Holy Ghost in posse in a cloke-bag, making him take a good many journeyes : To anathematize all the opinions of the *Lutherans*, *Huguenots*, and *Calvinists*, without exception, how true soever; for feare of giving them the least advantage. To make goodly decrees in appearance for the reformation of manners and Ecclesiasticall discipline

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discipline, about points unnecessarie, and such as never came in question : and under hand to forge others to confirme the groundlesse usurpations of the Pope, and quite annull all the pleas of Christian Princes, to elude all their reasons and demands. On the other side, to set up such as would enlarge that immense power of the Pope, to make it truly Monarchicall ; such as would make all the Kings and Princes of the earth to tremble at their voice ; such as would put a rod into his hand, wherewith he might whip them at his pleasure, upon any conceived grudge ; or rather a materiall sword, or some such like offensive weapon, wherewith he might assassinate them, when they should wax either cold or luke-warme towards his imperiall Edicts. It behooved them also to disannull all the Decrees of the Councils of *Constance* and *Basil* which were any way prejudiciall unto them ; either covertly repealing them, or by some oblique meanes voiding the force of them ; and so to deale with the rights and liberties of some such Realmes and Provinces as durst stand upon their prescriptions, priviledges, lawes and statutes, whereby they pleaded exemption from their upstart *Decretalls*. Lastly, it concerned them to take speciall care how they medled with the reformation of the Pope ; how they spoke of his excessive power ; of the abuses and misdemeanors of his Court ; of his unjust attempts, and the little care which he hath of his spirituall charge, and the good of soules. This was a rocke they must not touch upon in any case. And so well they knew how to steere for their best advantage, that whosoever reads their Decrees, cannot choose but forthwith confesse that it is a worke meerly Pappall, and such as none else could have a hand in ; and will ever remaine of this opinion, that this last Councell is nothing behinde with those of *Florence*, and that of *Lateran*, which were called of purpose to disannull that of *Basil*, and the second of *Pisa* : just as this of ours was to stop the clamours of the Christian Princes and people, lest they should have put up one or other in *Germany*, like to the first of *Pisa*, or some others held in after ages. For you shall never reade of any Councell that was so much to the Popes honour and good liking, as this. Amongst so many Bulls and Constitutions which have come forth since, you shall scarce finde any which doth not make mention of this Councell ; which doth not name it with honour ; which doth not expresse an earnest desire of the observation of it, and which doth not in some sort confirme it. Let a man but reade the Commissions of the Nuncio's, which since that have come into *France* and other Countries ; so many articles in them, so many rehearsals or reinforcements of this Councell. To say nothing of the great paines they have, and doe daily take, to have it generally received and kept : Among all the Councils that ever were, no compare with this for reverence and respect. It hath quite defaced and extinguished the memorie of all the rest. Tis their minion, their favourite, their champion, their arcenall, their bulwarke, their protector, their issue, and their creature : and good reason why they should make so much of it. Now the more highly they prize it, the more should we suspect it ; the more should we straine our veines, and bend our nerves, our force and vigour, to repell and stifle it as a venomous serpent : what we doe in this kinde will not want a president. When Popes and Councils have straggled out of the right way, when they attempted more than of right they ought, when they tooke their passion for their guide, they have ever encountered with just disobediences, and lawfull resistance ; with strong mounds and fences, which have stopt the current of their out-breakings and unjust enterprises.

2 The Emperours of *Germany* are all full of wounds and scarres, which they received in such like scuffles. I may well say received, not onely in the authoritie they have or should have in the Church, in the rights of their Empire ; but even in their persons : I may well say scuffles and combats, they being oft-times constrained to buckle on their harness, and take up their swords in their owne just defence, to repell the offensive armes of him who under pretence

of the Spirituall, usurped upon the Temporall; stirred up against them their vassals and subjects; rooke the Crowne from them, and elected others in their place, pretending himselfe to be Emperour and Lord paramount of the Empire, and all the Kingdomes of the world: who made as much use of *Pauls* sword as *Peters* keyes, to atchieve his conquests, to wreake his vengeance, to ingrosse all authority unto himselfe, and like the old *Romanes*, to make himselfe Monarch, Commander, and Lord of the Universe. The examples of the *Henries*, *Frederickes*, *Ludovicus Bavarus*, and many other Emperours, are sufficient proofes of what we here speake. *England* hath had such sufficient experience of the effects of that tyrannicall government, that after she had lost all her liberties both Ecclesiasticall and Civill, (which were not inferiour to those of *France*) after she had beene ransacked and ravazed in a *Scythian* and *Tartarian* manner, she was miserably enslaved and made tributary to *Rome*; and her Kings, for all their honour, declared feudataries to the Pope; stooping under that base servitude till *Henry* the eight; who, to be revenged of an injury received touching his marriage, withdrew himselfe and all his Kingdome from his obedience to the Pope, and that while he was yet a Catholique.

As for our *France*, it is a long time since the *French* Church hath beene at daggers-drawing with the Pope and Court of *Rome*, for the preservation of their rights and liberties; which consist mainly in the not acknowledging of the Popes power any way in temporals, nor in spirituals, but so farre as is conformable to the ancient Canons and Decrees. Sometimes they went so farre in the controversie, that he, that shall reade the histories of it, will never marvaile at those writings which have beene set forth against the Pope in these latter dayes. The commendation of preserving these liberties belongs principally to our Kings, who have ever opposed themselves against the avarice and ambition of the Court of *Rome*, as Guardians, Protectors and preservers of these liberties; and have stopt the course of that, not without a great deal of trouble and turmoile, by the good advice and counsell of the States of the Land, and chiefly of the Parliament and University of *Paris*, who have ever beene the forwesses of *France*. King *Philip Augustus*, *Saint Lewes*, *Philip the Faire*, *Charles* the sixth and seventh, *Lewes* the eleventh and twelfth, did strongly withstand the transportation of gold and silver, the collation of Benefices and Bishopricks by the Popes their usurping of jurisdiction, first-fruits, graces in reversion, reservations, and such like trumperies of the Court of *Rome*.

Philip the Faire rejected the Bull of *Clement* the fifth, concerning the confiscation of the goods of the *Templars*, (although it was confirmed by the Councell of *Vienna*;) as entrenching upon jurisdiction within his Realm; it is a wonder to thinke how farre they went in some particulars.

* This same King was the first that felt the effects of their indignation upon that occasion, by the sauciness of *Boniface* the eighth; who being incensed by the resistance of that Prince, thundered so thicke upon him, that after he had pronounced him his vassall and subject as touching his temporals, he denounced an *anathema* against him in reference to his spirituals. The King being justly provoked herewith, assisted by the Lords Temporall and Spirituall of his Realme assembled in Parliament, by their counsell and advice, repelled that injury: and paying him in his owne coine, caused his injurious and proud letters to be burnt; sent his Nuncio's home againe with shame enough; accused him of heresie and symony; yea and put him in such a fright by that brave spirit *Nogaret* of *S. Felix*, that he died upon it.

Charles the sixt being excommunicated by *Benedict* the thirteenth, put the bearers of his Bulls to the *honourable Amends*, making them to bee carried in tumbrels, apparelled in painted coats, with paper Miters upon their heads, and the Popes Bull represented in their hands, and his armes reversed. All which was done by the advice of the Princes, Lords, Prelates, and other Ecclesiastiques

b Vid le recueil
des libertés de
l'Eglise Gal-
licane.

c Vid les re-
monstrances
faites au Roy
Loys 11. par la
Cour de Parle-
ment, sur les
privileges de
l'Eglise Galli-
cane, l'an 1461.
et les memoires
de M Jean du
Tillet. Et ap-
pendicem ad
Martinum Po-
lonum, sub anno
1312. Et l'ad-
vis de M. Jean
du Tillet sur
les libertés de
l'Eglise Gal-
licane.

* Platina in
Bonifacio 8.
Martinus Polo-
nus sub anno
1301. Jean
Boucher en la 4
partie des An-
nales d'Aqui-
tain.

Nicolas Giles
en ses Annales
de France en la
vie de Philippe
le Bel.

Chroniques de
Bretagne l. 4.
chap 14.

Vid libellum de
statu Ecclesie
Gallicane in
schismate. &
Papon l. 1. tit.
5. ar. 27.

d Amende bo-
noraire. So they
call this kinde
of ignominious
punishment.

stiques of his Kingdome, together with the Parliament and University of *Paris*; as appeareth by the Acts published concerning this particular.

Lewes the eleventh, to wave the censures of *Pius* the second, made his Attorney generall put in an appeale from that Pope to the next Councell. *Lewes* the twelfth had a defensive warre against *Julius* the second, upon this occasion. He had suspended him by the Councell of *Pisa*, whereupon hee procured a Synod of the *Gallicane* Church held at *Tours* in September 1510. to determine against him, *That it is lawfull for Christian Princes to defend themselves against such Popes as stirre up unjust warres against them, and to substract their obedience from them.*

The Parliaments of this Kingdome, and namely that of *Paris*, have alwaies engaged their authority for the justice of such defence; either by way of humble remonstrance made to our Kings, (who, upon the perswasion of some bad Councillors, sometimes yeelded too much to the Popes impositions; or else by reason of the exigency of their affaires, which those cunning fowlers were ever ready to spy out, soothed them up in their humour too much) or else by cancelling the Popes Bulls in cases of appeales as of abuse, or some other way: where the Advocates and Attorneys generall have euer had a faire occasion to shew their strength and abilities in, and whence many of them have purchased eternall commendations. The famous University of *Paris*, and more especially the learned *Sorbon*, have as it were set bounds and limits to the power of the Popes, and made them know their duty; they have sleighted their unjust Bulls; and, what by their consultations, what by their appeales to future Councils, they have preserved our liberties and priviledges entire even untill this instant. I will not robbe the Clergy of *France* of the honour they have atchieved, nor of the share which is due unto them in all these trophies. What though there were some of that ranke defective in their duty to their Prince, out of a timorousnesse which they might have of being disobedient to him whom they accounted their spirituall Head? yet there wanted not some of them who stood in little awe of his chafings and thundering.

*Vi. les remon-
strances faites
au Roy Loys 11
par la Cour de
Parlement de
Paris sur les
privileges de
l'Eglise Galli-
cane l'an 1461.
Vid. Libellum
de statu Eccle-
sia Gallicana
in schismate
pag 77. & Ga-
guinum in Lu-
dovico 12.*

The Prelates of *France*, in the Synod of *Rhemes* held under *Hugh Capet*, made a declaration: that the Popes have nothing to doe to usurpe the power and authority of Kings. *Arnalt* Bishop of *Orleans* maintained in that Synod, that the Popes have no power at all over the Bishops of *France*, so as to have any cognizance of cases belonging to them; and hee declamed most stoutly against the avarice and corruption of the Court of *Rome*. *Gerbert* Archbishop of *Rhemes*, and afterwards Pope of *Rome*, in an Epistle of his writ to *Seguin* Archbishop of *Sens*, saith, that *Rome* approveth such things as are condemned, and condemneth such as are approved, *That* (saith he) *which wee say belongs onely to God; the Apostle tells us. If any preach unto you any other things than those ye have received, though it be an Angell from heaven, let him be accursed. Must all Bishops burne incense to Jupiter, because Pope Marcelline did so? I dare boldly say, if the Bishop of Rome have offended one of his brethren. and will not heare the admonitions of the Church, he ought to be accounted as a Heathen and a Publican.*

*Concilium
Rhemense.*

*Gerbertus in
epistola ad Si-
guinum Seno-
nensem Archie-
piscopum.*

The Bishops of the Councell of *Ments* writ yet a little more tartly to *Nicholas* the first, calling his fury tyrannicall; his decree unjust, unreasonable, and against the Canon lawes; accusing him of rashnesse, pride, and couzenage; and so giving him to know that he had no power over them, and that he ought to acknowledge them for his brethren and fellow-Bishops.

*Vi. Annales in-
certi authoris
inter scriptores
coetaneos Pi-
thæi.*

Urban the second forbade the Bishops of *France* to crowne *Philip* whom he had excommunicated; but they were readier to obey their Kings commands, than his prohibitions, as we shall tell you anon. The most of those oppositions made by our Kings, whereof wee have spoken, were abetted by the Prelates, and other Ecclesiastiques. These latter times afford us as pregnant ex-

Ivo epist. 134.

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amples as any of the precedent ; wherein we have seene the molt learned and honourable Prelates of France banded together for the maintenance and defence of their King, their rights and liberties of their Countrey and Church of France, against a Gregory the fourteenth, a Sixtus the fifth, and such others as projected the demolition and utter ruine of this State. It were too hard a taske to goe about to reckon up the words, deeds, and writings of the many Prelates and Churchmen of this Kingdome, whereby they have many times repulsed the invasions of Rome.

12 Suffice it us to say, that in the greatest stormes God hath ever raised up men of courage and discretion, as many, yeamore of that order than any other, who have rung the alarum, sounded the trumpet, taken up armes, and given our Kings to understand how farre they might exercise their power in spiritualls, for the preservation of their rights and liberties.

*Annales incerti
authoris in col-
lectione Pithei,
sub anno 863.
et Aventinus
l. 4. hist. Boio-
rum.*

13 Nicholas the first in a Synod of his holden at Rome in the yeer 865. revoked the Decrees of the Councell of Ments, pretending that it had attempted to make a divorce betwixt King Lotharius and Thiberg his wife, promising withall that he should afterwards marry with Waldrada, and this without the authority of the See Apostolique : he also deprived of their dignities, and excommunicated Theugot Archbishop of Triers, and Gunther Archbishop of Cullen, and passed the same sentence of condemnation upon the rest of the Bishops of that Councell, in case they did imitate and uphold the former. Please you heare his owne words. *The sentence of deposition, which we have denounced against the foresaid Theugot and Gunther, and the other chapters made by us and the holy Councell, shall be here inserted.* Yet for all these menaces, they caused pretty stout letters to be writ to the Pope in the name of Theugot and Gunther, whereby they shewed that they made no great reckoning of his thundering and condemnations, though hee had given them a taste of a Councell. *We doe not receive (said they) that corrupt sentence, which is far from any zeale of equitie, unjust, unreasonable, and against the Canon law. But, together with the whole assembly of our brethren, we disregard and reject it, as a matter unconfessionable and full of wickednesse, pronounced in vaine. Nor will we communicate with thee, who art a favourer of such as are anathematized and cast out, despisers of holy Church, and dost indeed hold communion with them. But we content our selves with communion with the whole Church, and that fraternall society which thou proudly misprizest, in exalting thy selfe above it, and excludest thy selfe from it, making thy selfe unworthy of it by an over-haughty advancing thy selfe: So that out of an inconsiderate lightnesse thou art stricke with an anathema by thine owne sentence; in as much as thou writest, Cursed be he that doth not keepe the Apostolicall commandments; which, it is well knowne, thou both heretofore many wayes hast, and at this present dost violate, trampling under foot both the lawes of God and the holy Canons of the Church at once, making them of no effect nor use in as much as thou canst; never treading neere the footsteps of thy predecessors the Bishops of Rome. We therefore having experience of thy craft and subtilty, observe withall thy indignation and high-swolne ambition, and wee doe not yeeld an inch to thee nor to thy pride, whereby thou hastenest to bring us under hatches, prosecuting herein the desires of our enemies, but thy favourites. Nay thou shalt know, we are none of thy Clerkes, (as thou dost boast and bragge) but that thou shouldest acknowledge us for thy brethren and fellow-bishops, if thy arrogancy would permit thee so to doe.*

14 When the Popes had not power enough of themselves to compasse their ends, to tame Princes, to trouble and enthrall Christendome, or haply when they would set a fairer glosse of justice upon their actions, and cut off all means of gainfaying, then they releevd themselves by the authority of some Councell or other called together by their cunning, and packed up according to their humour; wherunto all men, in honour and reverence to the Church,
readily

readily submitted themselves as unto some divine Oracles. Till at last they beganne to finde out the myltery, and perceive plainly that those assemblies, under colour of piety and religion, served but for instruments to the Popes humours, to wreake their humane malice; stucke close unto their tyranny, and gave authority to their unjust usurpations. This was it which oft times gave occasion to reject those Councells as spurious and adulterate, as the Synagogues of Satan; yet alwayes conserving a due reverence to those true, holy, lawfull, and Oecumenicall assemblies assembled in the name of the Holy Ghost, whereof we shall give you an instance or two.

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15 Gregory the seventh excommunicated the Emperour Henry the fourth, by vertue of a famous Councell holden at Rome, in the yeere 1074. The Pope (say the German Chronicles) called a famous Synod of Bishops, and other Ecclesiasticall Prelates at Rome, in which Councell divers things to bee observed by all Christians, concerning the Popes authority, were enacted and ordained. There also was Henry afterwards excommunicated as an enemy and persecuter of the Church. Platina hath set down the forme of that excommunication. An English Monke doth ascribe it to the Councell of Cleremont; but he doth but equivocate in that, unlesse hee meane that it was repeated there. Yet for all this the Bishops of Germany did set so light by it, that the next yeere after being Synodically assembled at Brixin in Austria, they deposed Pope Gregory, and chose Gerbert Archbishop of Ravenna in his stead, calling him Clement. Henry desiring to secure the fluctuating and troubled estate of the Church (they are the words of the same Chronicle) called a Councell at Brixin a City in Austria; where he assembled all the Bishops and Abbats which were of his opinion, against Pope Gregory: In which Councell they by their decrees deposed Pope Gregory, in his absence, from the See apostolique, as a perturbur of the Church, and a wilde headed Monke (for he was a Monke before he was Pope), and chose in his place Gerbert Archbishop of Ravenna. Afterwards he sets downe the very words of the Decree. Platina, though an officer of the Popes, affirms as much. Then (saith he) Henry being rather incensed than admonished by these censures, having assembled a company of Bishops ill affected like himselfe, he created Gerbert, late Archbishop of Ravenna, Pope, and called him Clement. The Councell of Cleremont holden under Urban the second, and where hee was personally present, in the yeere 1094. or (as others are of opinion) 95. made the like attempt to excommunicate King Philip in his owne kingdome, by reason of his marriage; and againe in a Councell holden at Poictiers not long after by the Popes Legates. In this Councell (saith Matthew Paris, speaking of that of Cleremont) Pope Urban excommunicated Philip King of France. And another English Author; In this Councell the Pope excommunicated King Philip of France, and all such as should call him their King or their Lord, and which should obey him, or speake unto him. In like manner Ivo Bishop of Chartres speakes of them both. By reason of this accusation King Philip was excommunicated by Pope Urban at the Councell of Cleremont; and having resumed the same wife after he was divorced from her, he was afterwards excommunicated at the Councell of Poictiers by the two Cardinals John and Bennet. Notwithstanding which excommunication he was crowned by the Archbishop of Tours, in a full assembly of other Bishops. Know you therefore (saith the same Bishop of Chartres in a letter of his to Pope Urban, whose partizan he was) that, contrary to the prohibition of your Legat, the Archbishop of Tours hath set the crowne upon the head of the King. He speakes afterwards of the election of a Bishop, made at the same time by those who were assembled with the said Archbishop. And in another epistle of his to one of the Legats of Pope Paschal the second, Certaine Bishops (saith he) of the Province of Belgia, crowned the King upon Whitsunday, contrary to the Edict of Pope Urban of happy memory. In another Epistle formerly writ to the same Urban, he gives him to wit how Philip had sent Ambassadors

H. Murim l. 15.
Germanic.
Cbroncorum
pag. 118.

In vita Greg. 7.
Guilielmus
Malmesbur.
l. 4. c. 2.

Idem Mutius
Germanicor.
Chronicorum
l. 15. pag. 120.

In Greg. 7.

Matthew Paris
in Wilhelmo
2. pag. 29.
Wilhelmus
Malmesbur. l. 4.
in Wilhelmo 2.
cap. 2.
Ivo Carnuten-
sis epist. 212.

Idem Ivo epist.
68.

Idem Ivo epist.
134.

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Ivo epist. 28.
ad Urbanum
Papam.

Mattham
Westmonast.
l. 2. sub anno
1095.

Matth. West-
monast. lib. 2.
sub anno 1215.

Idem ad ann.
1216.

Platina in Bo-
nifacio 2.
Martinus Polo-
nus l. 4. in Boni-
facio 2. sub an.
1302.

Platina in Bo-
nif. 8.

Extra vagant
Meruit. depri-
vileg.
Martinus Poli-
nus in Clemente
3. sub an. 1305.

favours unto him with prayers in one hand, and threats in the other, such as these; *That the King and Kingdome would relinquish their obedience to him, unlesse he did restore the King unto his crowne, and absolve him from the sentence of excommunication.* And afterwards he adviseth him, how the Arch-Bishops of Rhemes, Sens, and Tours had, by injunction from the King, appointed their suffragan Bishops to meet at Troyes, the first Sunday after All-Saints day, after he should have returned his answer. Whence we collect two things; first, that the Bishops of France did not cease to acknowledge their King, nor to obey him and communicate with him, notwithstanding the prohibition from the Councell of Cleremont: next, that they were very ready to put in execution those threats which the Ambassadors went to make unto the Pope, in case he did not condescend unto the Kings pleasure. And yet that was as renowned a Councell as this of Trent, if not more; where the Pope himselfe was present in person; where that great Croisada for the holy Land was concluded upon: and one of our Historians speaking of it, calls it *in terminis, The great Councell.* In the yeere 1215 Innocent the third in a generall Councell holden at Rome, did excommunicate Lewes the eldest sonne of Philip Augustus King of France, with all his adherents. The same yeere (saith an English Monke) upon S. Martins day, was there a generall Councell holden at Rome under Innocent the third; at which were present, Primates, and Arch-bishops sixty one; Bishops, foure hundred and twelve, and eight hundred Abbots and Priors. In which Councell the said Pope did excommunicate Lewes the King of France his eldest sonne, and all the Earles and Barons of England, with their complices, which conspired and rebelled against the King of England. Philip Augustus knowing the excommunication, said to Gualo the Popes Legat, *The Kingdome of England (which the Pope pretended to be feudatary to him, and thereupon proceeded to that sentence of excommunication) never was, nor is, nor ever will be S. Peters patrimonie, in as much as no King or Prince can give away his Kingdome without the consent of his Barons, who were bound to defend it. And if the Pope intend peremptorily to stand in this error, urged thereto by a desire of enlarging his dominion, hee will give a bad president to all Kingdomes. Whereupon the nobles of France, seconding the words of their Prince, begun in an instant to cry out with one voice, That they would stand for that article till death.* And yet all this was against the decision of a solemne generall Councell. Boniface the eighth (saith Platina) having called a generall Councell, subjected Philip the Faire and his Kingdome to the Emperour Albert: this was (saith the Bishop of Consentia, who relates the same story) in the yeere 1302. Notwithstanding this decree of the Councell, Philip the Faire did revenge himselfe upon Pope Boniface, in such sort, that if his violent death had not ensued upon it, his proceedings had never been blamed nor condemned by any man. Platina, after he hath delivered the story at large, gives him this elogy; *Thus dyed that Boniface, who studied rather to strike a terror then religion into all Emperours, Kings, Princes, Nations, and people; who laboured to give and take away Kingdomes, to repulse and recall men at his pleasure; insatiably thirsting after an incredible masse of money, which he had raked together by hooke and crooke. Wherefore let his example be a lesson to all governours, religious and secular, not to rule their Clergie and people proudly and disdainfully, as the man we speake of did, but piously and modestly.* Benedict the eleventh, who succeeded this Boniface, being informed of the justice of the cause of our King, absolved him from the interdict, whereto both himselfe and all his Kingdome were subjected; and besides set forth a declaration for the exempting of the Kingdome of France, from that power which Boniface by his Decretall did arrogate to himselfe over all Empires and Kingdomes whatsoever, and for the preserving of it in the ancient rights and liberties thereof.

16. Pope John the twenty second (say the German Chronicles) having called a Councell at Avinion of Bishops and Cardinals not a few, passed the sentence of excommunication upon Lewes the Emperour, and gave his reasons in his Bull against Lewes; because he had aided heretiques and schismatiques, and had ever been a favourer of rebels. And besides he denounced the sentence of excommunication against all those that did not sequester themselves from his company, and of deprivation of their benefices and dignities against such Priests as should celebrate divine service in his presence. The Author addes one thing very remarkable: These proceedings (saith he) of the See of Rome, were in those daies of great efficacy; for it was a crime inexcusable to be of another opinion then the Pope of Rome: yet were there some notwithstanding who sided with Lewes without any regard of the excommunications: but these not very many; for in an imperial Diet called afterwards by the Emperour, to see if hee could finde any reliefe against that sentence; all the world was frozen-hearted and crest-falne. All the refuge that poore Emperour had, was in a few Lawyers, who stoutly defended his right, and thereby confirmed most of those who were wavering. Lewes had (saith the same Chronicle) some Doctors both of the Civill and Canon Lawe, who were of opinion, that the Popes sentence was null and invalid; which opinion of the Doctors was a meane why divers did not abandon him. See here how the Emperours party, notwithstanding his right, was at first but very weak; yet afterwards grew so strong, that every one openly rejected the unjust decree of the Councell. The Estates assembled at Franckford the yee 1338. did cancell and disannull all these lawlesse proceedings, by a faire decree which wee may read at large in *Naucleus*, Provost of *Tubinge*, wherein are set downe all the authorities and reasons in law against the fore-mentioned sentence and processe, with this close, By the advise and consent of all the Prelats and Princes of Germany, assembled at *Franckford*, wee decree that the former processe, be void and of no effect, and pronounce a nullity upon them all. One of our commentators affirms, that even in the Court of Rome, where himselfe afterwards was, many Prelates and many laiques, well skilled in both the Lawes, did hold that the Emperour was wronged. To bee short, there was not one till Pope Benet the twelfth, who succeeded Pope John, that did not disrelish that processe; and yet it was done in a Councell. The Councell which was begun at *Ferrara* 1438, and continued at *Florence*, was never received and approved of in this Realme of France. The Bishop of *Panormo* tells us so; The King of France (saith he) did expressly forbid upon great penalties, that any of his dominions should goe to *Ferrara* to celebrate the Oecumenicall Councell. Charles the seventh telles some Cardinals downright so, who were sent Ambassadors from *Eugenius*, and were come to *Bruges* to get him to accept of it, and amongst others to present him with this Article; That since such time as it was translated to *Ferrara*, the King should reject the Councell of *Basil*, and receive the Councell of *Ferrara* with the acts thereof. Whereto he made answer, after six dayes deliberation with his Prelates and others assembled at *Bruges*, That hee had received the Councell of *Basil* for a Councell indeed; that he sent his Ambassadors thither; that many things were there wisely determined concerning faith, and manners, and such as hee liked well of: But for that of *Ferrara*, hee never did, nor never would take it for a Councell.

17. These articles and answers are extant in the workes of *Nicholas de Clomangiis*. And yet for all this *Clement* the seventh styles this the Eighth Generall Councell. For marke how he speaks of it in his Bull of the 22. of Aprill 1527. directed to the Bishop of *Farnasia*. Wee cannot chuse but lend you our assistance in the impression of the Acts of the eighth Generall Councell held at *Florence*, which you have translated out of *Greece* into *Latine*. True it is, that

Henry the 3.
urged to re-
ceive it.

*Matin in Ger-
manic. Chronic.
l. 24 pag. 226.*

*Naucleus Vo-
lum. 2. Generat.
45. Extat etiam
apud Aventin.
l. 7. Annallum
Boltrun. Vide
etiam Albertum
Argentinensem
in Chronic. Et
Albericum de
Rosate in L.
Bene a Zenone.
C. de quadrie.
prescrip.*

*Albertus Ar-
gent in Chron.
Panormit, in
tract de Conci-
lio Basiliensi,
circa princip-
num 6.
Extant hi arti-
culi apud Nico-
laum de Clamen-
giis post Ar-
restum de An-
na: pag. 128.*

*vi. Editionem
Romanorum
Adornum Gener-
rale 8. Synodi.
per Antonium
Bladium, ann.
1516.*

The Councell
of Basil and
Lateran not
admitted.

*Surinus in Epist.
ad lectorem po-
sit ante Concil.
Ferrari tom 4
Concil. pag. 780
Bellarm. 1. tom.
4. contr. gener.
l. 1. c. 5.*

*Vi. pragmatic.
Sanctionem in
proem.*

This protesta-
tion was prin-
ted at Paris by
John Daillier,
anno 1561.
together with
an oration
made before
Charles the 6.
in the name of
the University
of Paris.

*Guilielm. Bene-
dictum in repe-
tit. cap. Ray-
nutium in verb.
Et uxor. nom.
Adelas. num.
284.*

*Extat in fasci-
culorum ex-
petendarum
pag. 346.*

*Paulus Langius
in Chron. Sizi-
rensi sub ann.
1513.*

Laurence Surinus disavowes it, when he saith, it was not well said to call it the eighth Councell, because that's not it's place. He wist not haply, that a Pope (so saith *Bellarmino*, them to a greater Doctor than *Clement*) ranked it the sixteenth amongst the approved Generall Councells. There hath beene such a stirre in France about placing it according to it's ranke, that the question hangs yet in the Court undetermined. As for the Councell of Basil, although the Ambassadors of France were there, and Charles the seventh confesse that hee received it as a Councell; yet for all that hee approved it but in part: for of forty five Sessions of that Councell, France hath received onely the thirty two first, and those too not without some qualifications and restrictions. Some Decrees as they lye, others with certaine formes and modifications; so sayes the Pragmaticall Sanction. As for the last, which mainly concerne the deposing of Pope *Eugenius*, and the creation of *Felix* the fifth, Charles the seventh made this protestation: The King protesteth as a most Christian Prince treading in the foot-steps of his predecessors, that he is very ready to give care to the Church rightly and lawfully called together. But for as much as many honest and grave personages make a question, whether the suspension, deprivation, and election which ensued thereupon at Basil, were rightly and Canonically performed or no, and seeing it is doubtfull whether that assembly did sufficiently represent the Church Catholique, then when the matters were acted & agitated, so as they might proceed to points of such great consequence and difficulty, therefore the King doth persevere and continue in his obedience to *Eugenius*, wherein he is at this present. That which *Benedict*, sometimes Counsellour to the Parliament of *Tholous*, hath delivered in his workes concerning this point, is very remarkable. Herein (saith he) appeareth the error of some, who hold that the French Church assembled at Bourges in the time of Charles the seventh King of France, could not, as she did, reject any Canons of the Councell of Basil: for shee might both reject, and not accept them, and qualifie those shee received by adding to, or detracting from them, and so put them in forme and fashion: not upon misdoubting of the power and authority of that Generall Councell which made and published them; but to fit and accommodate them to the exigencies of those times, and to the conditions of the places and persons in the Kingdome, and in Dauphine; in such sort as those Fathers have expressed, and as it appeareth by what wee have delivered, but more plainly, in the text of the pragmaticall Sanction: so that if they might be wholly rejected, much more might they be onely in part received, and that with some qualifications and conditions. As for the last Councell of Lateran, however the Popes make high esteeme of it, as being very advantagious to them, yet indeed it cannot justly be ranked amongst the number of lawfull Councells, both because it was purposely called for a countermine to the second *Pisan*, to elude the reformation intended as well in the head as the members; and also by reason of the iniquity of the Decrees there made; whereof wee shall treat elsewhere more at large. Here I need say no more, but that it was never received nor approved in France; nay more, the University of Paris did put in an appeale to the next Councell: the copy whereof may be read in some authors, where it is said, amongst other things, that this same Councell was purposely assembled against France: as indeed it was. For there both *Lewes* the twelfth was excommunicated, the Pragmaticall Sanction repealed, and the second *Pisan* Councell consisting mainly of French (which was their fault, not our plot) in like manner condemned. Tis said also, how that Councell was not assembled in the name of the Holy Ghost: and a Germane Monke styles it a packe of Cardinalls; commending and approving that appeale which was made concerning it by the University of Paris: It will prove cozen germane to that of Trent, so that I will not here set downe the very words of that appeale, because I take occasion to speake of them elsewhere. He that shall seriously consider

sider, these instances, hee will finde, that the rejection hithertowards of the Councell of *Trent*, both in this and other Kingdomes, is no novelty nor extraordinary thing. For many of those by us mentioned were more famous, more generall, more legitimate, and withall farre lesse prejudiciall, than this. They contained onely some petty grievances, some personall injuries, some particular intrenchings upon some rights, either Ecclesiasticall or Temporall: But this keepes neither rule nor measure, but turnes the state of the Church, and all Christendome topsie-turvie: it sets the Pope above all: above Kings, Princes, and Councils: yea it puts Kingdomes and Empires in subjection under him: and for Temporall matters, it gives him full power and absolute authority over such Ecclesiasticall persons as did not acknowledge any jurisdiction of his, save such as remained upon record: it reduceth us to our former miseries, to a necessity of going to *Rome* to plead our causes, that so it may squeeze our Countreyes both of men and money: it entitleth him to the election into Bishopricks and Benefices, so to cozen the naturals of each Kingdome and Province of them, and to transerre them upon such strangers as will be at his devotion: it robs Kings of the nomination of Bishops and other Ecclesiastiques, and of that jurisdiction over them which they ought to have; nay and in some cases even over meere Lay-men; devolving all to the Pope by meanes of appeales, commissions, evocations, reservations, exemptions, and that absolute authority which it gives him in such things as concerne the manners and discipline of the Church, nay indeed in all things without exception: It repeales the ancient Canons and Ecclesiasticall Constitutions, subjecting us wholly to all the Papall Decrees, which dispose as boldly of Temporalls, as Spiritualls. It totally reduceth all ancient liberties to servitude, and particularly those of *France*, whereby we were ever preserved from an insupportable tyranny; from those troubles and calamities which were prepared for us, and under which our ancestors groaned, whensoever they were carelesse to preserve them. Whereupon they have (as it were) pourtrayed them forth upon a tablet, to serve (as they say) for a caution to posterity, that so they may take heed of making shipwracke of their liberties. So as a many would say, they knew by a secret revelation that the Councell of *Trent* would come, and foresaw our future stupidity. And yet even then when they gave us this counsell, they were onely busied about the maintaining of some few of their liberties, whereas now all are going, (as we shall make it plainly appeare in this Treatise) besides many other injustices, which it would be too long to specifie in the prologue. And for as much as that which first put me upon this enterprize, was the earnest suits, which, being at Court, I have seene exhibited to our Sovereigne in behalfe of the Pope for the receiving of this Councell, I thought fit to shew in the first place, that this is no new thing, but that whatsoever they can urge concerning this point, hath beene heretofore urged to our precedent Kings, but in vaine, and with no effect; for they would never give care to the publication of a thing so dangerous both to the Church and State.

This Councell
more encro-
ching than
others.

*Vide consti-
tutionem Caroli
6. laram anno
1406.*

CHAP. II.

*Of the instances which have beene made unto the late Kings,
for the receiving of the Councell of Trent.*

Charles the 9.
urged to re-
ceive it.



Voyez le troi-
esme volume de
recueil des cho-
ses memorables
pour le fait de
la religion &
estat de Roy-
aume, en l'an
1563.

1 He Councell of *Trent* was no sooner finished, but *Charles* the ninth was moved by the Ambassadors of Pope *Pius* the fourth, of the Emperour, the King of the *Romanes*, the King of *Spaine*, and the Prince of *Piemont* to keepe, and cause to be kept within his Dominions, the Canons and decrees of that Councell: Marke the very Article of their am-
 • bassage; The first point is, that they have solicited the King to observe and
 • cause to be observed in all his Kingdome, Countries, places, and Signiories
 • within his Dominions, the articles of the holy Councell lately holden at
 • *Trent*, which they had brought with them. And to the intent they might be
 • read unto him, and an oath administered before the delegates of the said Coun-
 • cell, the King was appointed to appeare at *Nants* in *Lorraine*, upon our Ladies
 • day in March, where the said Grande's would likewise appeare, they and
 • all the Kings and Princes of Christendome; where they determined to make
 • an universall law, like to that which was enacted and agreed upon at the
 • said holy Councell, for the extirpation of heresies and uncouth doctrines; such
 • as should be found repugnant to the holy Councell aforesaid.

2 They made also some other requests unto him; as, that he would put an end to the alienation of the temporall goods of the Church; that he would cause the ringleaders of the seditious and schismaticall persons in his Dominions to be punished; that he would revoke the pardon and absolution granted by his proclamation, especially in respect of such as were guilty of treason against the Divine Majestie; that he would put his hand to the sword of justice, for the punishing of the murder committed upon the person of the late Earle of *Guise*. To all which demands, he made answer by writing in this sort.
 • I thanke your Masters Majesties for the good and commendable advice they
 • give me; and you also for the paines which it hath pleased you to take in that
 • behalte: giving you to understand that my very purpose is to live and cause
 • my people to live according to the ancient and laudable custome kept and ob-
 • served in the Church of *Rome*: and that the peace which I made hereupon,
 • was to cleare my Kingdome of the enemy: and for the present, my desire is,
 • that justice be observed in all places of my Dominions. But I intreat them to
 • hold me excused, for a reason which I shall send unto them in writing; and
 • because I will have the advice of the Princes, Lords, and persons of note
 • of my Counsell; which I will call within these few dayes for that pur-
 • pose.

3 It was determined by the Counsell not to hearken to these perswasions and impressions; and that not only now, but afterwards also in the yeere 1572, when Cardinall *Alexandrino* the Popes Nephew, came forth of *Spaine* into *France*, with commission to reinforce this instance. And yet this King may seeme to be more obliged herein, then his successors; considering how hee had bestirred himselfe for the continuation of the Councell ever since his coming to the Crowne; and how he had sent his Ambassadors, and Orators to it; and had caused the Bishops and Abbots of his Kingdome to goe thither. As appeares both by his letters writ to the Councell, and by the relations of
 his

his Orators ; more particularly by that of the Lord of *Pibrac*. As for the reasons of his refusall, wee shall speak of them anon.

Henry the 3.
urged to receive it.

4 King *Henry* the third was entreated and urged in this point severall times, not only by the Pope, but also by the Clergie of his Kingdome, who never ceased hammering of this iron, yet could they not worke it to their liking. Monsieur *Arnalt* of *Pontac*, Bishop of *Bazas*, doth testifie as much in an oration of his, delivered the third of July 1579; *This thing* (saith he, speaking to the King about the receiving of the Councell) *for which the Clergy hath many times heretofore petitioned you, and namely in the last generall assembly of the States holden at Blois.* He meanes especially that in the yeere 1576. where Monsieur *Peter Espinac* Archbishop of *Lyons*, in an oration made by him in the name of the State Ecclesiasticall of *France*, speakes thus unto the King: 'They most humbly desire you, that according to their more particular requests exhibited in their Remonstrances, you would authorize and cause to be published, the holy and sacred Councell of *Trent*: which by the advice of so many learned men hath diligently sought out all that is necessary to restore the Church to her primitive splendor. Wherein (Sir) they hope and expect from you, as a most Christian King, and most affectionate to the Church of God, the assistance of your authority to put this reformation in execution. And here it is worth observing, that diverse Ecclesiasticks were of opinion, That the publication and observance of the said Councell might be required, without any prejudice to the liberties of the *Gallicane* Church, with exemption of the jurisdiction of the Cathedrall Churches of this Kingdome, which they enjoyed at that present, and of such priviledges and dispensations as they had already obtained, and not otherwise. Whereupon a protestation was drawne the 23. of December, in the same yeere, and afterwards printed 1594. the 26. of that moneth. 'Certaine delegates of the Church appeared in the Councell, and exhorted the three Estates to tolerate but one religion, viz. the Catholique Romane, and the Councell of *Trent*; and to take a view of those Articles which are generall and common to all the three Estates, to have them collected into one scrowle, and authorized by the King, to make them more authentique. Yet for all this, nothing was done, as appears by the report afterwards set forth in print.

Voyez l'extrait
des registres des
Estats sur la
reception du
Concile de
Trent.

These are the
very words of
the collection
of all that passed
in the assembly
of the three Estates
of *France*, in
the generall assembly
at *Blois*, printed
anno 1577.

5 The same request was againe repeated by the Clergy of *France*, assembled at *Melan*, in July 1579. as appears by the speech made before the King by the prenamed Lord Bishop of *Bazas*, out of which wee have extracted these words: 'The Clergy humbly entreateth your Majestie, that it may be lawful for them by your authority to reduce Ecclesiastical discipline, and reforme themselves in good earnest. Amongst all the rules of reformation and discipline, they have pitched upon those which were dictated by the Holy Ghost, and written to the holy generall Councell of *Trent*; in as much as they cannot finde any more austere and rigorous, nor more proper for the present malady, and indisposition of all the members of the body Ecclesiastick: but chiefly, because they are tyed and bound to all lawes so made by the Catholick Church, upon paine of being reputed schismaticall against the Catholick Apostolick Church of *Rome*; and of incurring the curse of God and eternall damnation. And presently after he addes, 'Wherefore the Clergy doth most humbly beseech you, that you would be pleased to ordaine, that the decrees of the most sacred Councell of *Trent* may be generally published throughout your Dominions, to be inviolably observed by them.

6 *Nicolas Angelier* Bishop of *Saint Brien*, made the like instance to the same King, October the third 1579, in the name of the Clergy assembled at *Melan*. Wee have (saith hee) earnestly desired, and doe now desire more earnestly, and will desire, as long as we breath, of God and you, that the

'Councell

Henry the 3.
urged to receive
it.

• Councell of *Trent* may be published, and the elections restored to Churches
• and Monasteries: Which publication of the Councell is not desired by us, that
• wee may thereby raise up you and other Catholick Princes in armes, to
• spoile and butcher such as have stragled from the true Religion: for wee
• desire not to reclaime and reduce them to the flock of Christ by force, but by
• sound doctrine, and the example of a good life: For he, we know, came not
• into the world to destroy, but to save the soules of all men, for whom hee
• shed his precious blood: and if need so required, we would not stick in imi-
• tation of him to lay downe our lives for the salvation of those poore mis-
• used soules. But we desire that Councell may be published for the establish-
• ment and maintaining of a true, sound, entire, and setled discipline; which is
• so necessary and behoofefull for the Church.

7 July the seventeenth 1582, *Renald of Beaune*, Lord Archbishop of
Bourges, and Primate of *Aquitane*, delegat for the Clergy in this case, spoke
at *Fountainbleau* in this sort; 'The whole Church, Christian and Catholick,
• assisted by the Legates and Ambassadors of the Emperour, of this your king-
• dome, and of all other Christian Kings, Princes, and Potentates, did call, as-
• semble, and celebrate the Councell of *Trent*; where many good and whole-
• some constitutions, usefull and necessary for the government of the Church
• and the house of God, were ordained: To which Councell, all the Legats
• and Ambassadors did solemnly sweare in the behalfe of their masters, to
• observe and keep, and cause it to be inviolably kept by all their subjects;
• yea, even the Ambassadors of this your Kingdome solemnly tooke that
• oath: Now it is received, kept and observed by all Christian Catholick
• Kings and Potentates, this Kingdome only excepted, which hath hitherto-
• wards deferred the publication and receiving of it, to the great scandall of
• the *French* nation, and of the title of MOST CHRISTIAN, where-
• with your Majestie and your predecessors have been honoured: So that un-
• der colour of some Articles touching the libertie of the *Gallican* Church,
• (which might bee mildly allayed by the permission of our holy father the
• Pope) under scugge I say of this the staine and reproach of the crime of
• *Schisme*, rests upon your kingdome amongst other Countries: which signifies
• no lesse in Greeke, then *divison* and *disunion*; a marke and signe, quite con-
• trary to Christianity, and which your Majestie and your predecessors have e-
• ver abhorred and eschewed: and when some difficulty was found about the
• receiving of some other Councells, as that of *Basil* and others, all was car-
• ried so gravely and wisely, that both the honour and unity of the Church,
• and also the rights of your crowne and dignity, were maintained and prefer-
• ved. And this is the cause, why the Clergy doth now againe most humbly de-
• sire your Majestie, that you would be pleased to hearken to this publication,
• and removing all rubs, which are laid before you concerning it, that you
• would with an honest and pious resolution, make an end of all to the glory
• of God, and the union of his Church.

8 There was a Nuncio from the Pope, who arrived in *France*, in the be-
ginning of the yeere 1583, who prosecuted this matter with a great deale of
earnestnesse: yet for all that he could not move *Henry* the third one jot; who,
like a great statesman as he was, perceived better then any other, what pre-
judice that Councell might be unto him. His majestie that now reignes, was
startled at that instance, and afraid, least that importunity should extort from
him somewhat prejudiciall to *France*; whereupon hee writ to the late King
concerning it; who made him this answer.

9 Brother, those that told you, that I would cause the Councell of *Trent* to be
published, were not well informed of my intentions, for I never so much as thought
it. Nay, I know well how such publication would be prejudiciall to my affaires:
And

Henry the 4.

This Letter
was printed
ann. 1583.

And I am not a little jealous of the preservaton of my authoritie, the priviledges of the Church of France, and also of the observation of my edict of peace. But it was only proposed unto me, to cull out some certaine articles about Ecclesiastical discipline, for the reforming of such abuses as reigne in that State; to the glory of God, the edifying of my subjects; and withall, the discharge of my owne conscience: A thing which never toucheth upon those rules which I have set downe in my edicts, for the peace and tranquillitie of my Kingdome, which I will have inviolably kept on both sides.

The Councell
rejected by
Henry the 3.

10 November the nineteenth 1585, the same Bishop of Saint Brien, delivered another oration in the name of the said Clergy, and was their deputy; whereby, after he had commended the late King for his edict of Reunion, and exhorted him to the execution of it, and the reformation of Ecclesiasticks; he addes, 'This is the reason, Sir, why we so earnestly desire the publication of the holy Councell of Trent: And above others my selfe have a more speciall command to doe. For that Councell hath not only cleared itselfe, and determined those doctrines of the Church Catholick, which were controverted by hereticks; to the end that people might not waver, and suffer themselves to bee carried away with every wind of doctrine, raised by the malice and cunning of men, to circumvent and entice them into error: but also it hath most wisely counselled and ordained every thing, which may seeme necessary for the reformation of the Church, considering the exigency of these times.

11 There was also another assault made upon him October the fourteenth 1585, by the Lord Bishop, and Earle of Noyon, in the name of the Clergy assembled in the Abbey of Saint German, neer Paris; which is more pressing than the former; 'Wee present unto you (saith he to the King) a Booke which was found at the removing of the Churches treasures, writ by the prudent and grave advice of the many learned and famous men, assembled in the Councell of Trent; guyded by the holy Ghost: who with a great deale of travell, paines, and diligence, have renewed the ancient ordinances of the Church, which were most proper for our maladies; and for those vices which at this present are most predominant in the State: and withall have provided for those, which being of no great standing amongst us, had not any particular remedies assigned them. The royall Priest hath put them into our hands, that wee might present them to yours. First, our Lord Jesus Christ, who having a speciall care of this Church, hath by his holy Spirit provided a remedy for her, who directed the Fathers in that Councell; next unto him and under him, our holy Father, the chiefe ministeriall head of the Church, having authorized and confirmed it, and exhorted all Princes, and republics, to receive and observe it; and with him the whole Church, not the Gallicane only, but the Catholick, doth summon, entreat, and pray you to receive it. That blessed Councell carries with it, to him that will duely read and consider it, the marke of the Author in the face of it; and hee that will judge of it without passion and prejudice, will say it is rather the worke of God than men. No good Christian can or ought ever to make any question, but the holy Ghost did preside in that goodly company which was in that manner lawfully assembled at Trent, with the intervening authority and command of the holy See; the consent of all Christian Princes, who sent their Ambassadors thither, who stayed there till the very upshot, without the least dissenting from the Canons, and decrees there published; there being such a number of Archbishops, Bishops, Abbats, and learned men from all parts; yea, not a few Prelats of your owne Kingdome, sent thither by the late King your brother; who having delivered, consulted and spoken their opinion freely, did consent and agree to what was there determined. And there-

The Councell
rejected by K.
Henry the 3.

therefore we are bold to tell you that we bring unto you, the Book of the Law of God, which we humbly intreat you to receive, with as much earnestnesse as wee can possible.

12 A little after he addes; 'If there be some particulars in that Councell, which some body, (either by reason of their particular interest and commodity, or because their bodies and humours are not sufficiently prepared, and disposed for the taking of such strong physick,) do complaine of and make some dorres about them; there is a good remedy for that: and wee dare undertake and promise, that recourse being had to his Holynesse, and he required thereunto, he will not refuse to provide for it. In like manner as the Chapiters and exempted corporations have by our meanes, and wee with them already preferred a petition, that their priviledges and exemptions may be preserved intire unto them, and that this publication may in no sort prejudice them; expecting herein a new decree from his Holynesse; after he shall bee sufficiently instructed by those remonstrances, which may be made unto him concerning this point. As also wee meane not by this publication, to prejudice the immunities and liberties of the Gallicane Church, which we perswade and assure our selves, his Holynesse, when hee shall bee thereunto entreated, will be content to maintaine and preserve. These overtures being already twice made upon the petition of the publication of this Councell; to wit, at the assembly of the States at Blois, and of the Clergie at Melun, we thinke it our duty not to give them over.

13 The provinciall Synod holden at Roan 1581, made this instance to the same Prince; *After that a good number of Bishops and prexyes, for those that were absent, together with Ecclesiasticall persons, from all quarters of our Province of Normandy, were in our Metropolitan Church at Roan; they tendered nothing more, than earnestly to sollicite the publishing and promulgation of the Councell of Trent within this Realme. Wherefore this our assembly by common consent, have resolved to present their humble petition to our Most Christian King, in like manner as was formerly done by the States of Blois, and the Clergy convented at Melun; that he would be pleased, for proove of his true piety and religion, to enjohne the publication of the said Councell; whereby the maintenance of the Church is well provided for, which is observed to be daily impaired and abated. In the end of this Councell, there were thirteen doubts proposed to the Pope, with his finall resolution to them: the last whereof was a demand of the confirmation hereof, which was condiscended unto.*

14 The provinciall Councell of Aix in Provence 1585, petition the King at the beginning of the Acts, *That he out of his singular piety, would command the Councell of Trent to be published, which had so exactly provided against those dangers, wherein the Christian Commonwealth was then implunged.*

15 Wee must not thinke, that these earnest solicitations, which our Ecclesiasticks here make, did proceed from them, but rather from the Pope. One argument hereof which may be alledged, is this, that they were not now interested herein; for the most of the decrees which concerned them, were admitted; and there was no default in the observation of them, unlesse it were on their part: and one company of them were inserted in the Edict of Blois, the rest in divers other Provinciall Councils, holden afterwards in France: the Canons whereof are to bee seen in print; at Roan 1581, at Bourges 1584, at Tours 1585, and at Aix in Provence the same yeere: all which are put out in print at many other places. Another argument may be the slight account they made of observing the Councell in such things as depended merely upon them, and which were in their power to doe; which plainly shewes, that all they did, was but to humour another. I speake not this of my owne head, but from

Claudius

Claudius Espensaus, a Sorbon Doctor, 'Doe wee dally (saith he) in a matter so serious? or rather doe wee make a mocke of those which desire a reformation, under colour of decrees? What reformation can bee expected from us who doe not observe those things, which we have so lately decreed? Hee speakes this to those Prelates of France, who were present in that Councell; and after their returne made no reckoning of observing that discipline which depended mainly on them, and was withall conformable to the ancient Canons. See here (saith hee) that which they of Trent ordained; but where is it observed? as for our Bishops who were at Trent and Bonony, there is not any of them that instructs the people in his owne person; at least not any that I heare of.

The little good the Councell did.

Claudius Espensaus l. 2. digress. in ep. ad Timoth. pag. 157.

16 And in his commentaries upon the Epistle to Titus, speaking of the discipline of the Church; But it is not long (saith he) since they have determined this point: the Pope and Councell of Trent, have brought it lately to an upshot. But what? were those pastors which came from thence, and had a hand in the making of those Canons of reformation, those injunctions of residence and preaching, ere a whit more diligent in feeding their flocks, or lesse silent in their pulpits after the Councell was confirmed by the Pope? their non-residence was as great as formerly, and they almost as dumbe as ever. They had rather tire then give over, and be cast out of their livings by those who style themselves reformers forsooth (when indeed they are nothing lesse) than indure to be reformed by Kings and Princes, and by them be constrained to doe their duty. It is no marvaile if they do somewhat for him to whom they are bound by such a strict oath, and who flatters and wooes them extremely to do the deed. But when the Churchmen, of our age especially, doe any famous exploit against the Pope; this is newes indeed, both in regard of that command. which hee hath got over them; and of the feare they ought to have, least they should be sentenced for heretiques in these controversies of religion. And this is the cause that the Popes have alwayes had recourse to them when they intended to doe some ill offices to our King and Kingdome. Boniface the eighth, by a gloseing letter of his writ unto them, endeavors to make them approve his injult proceedings against Philip the Faire: where hee saith, amongst other things, Those who hold that temporall matters are not subject to spirituall, doe not they goe about to make two Princes? Hee complains also of the Parliament holden at Paris, where it was enacted, saith he, by underhand and begged voices, that none should appear before him upon the summons of the See Apostolick. He complains also of the report which was made to that assembly by M. Peter Flotte, whom hee calls Belial, half blind in body, and quite in understanding: This was the man who being sent in ambassage unto him by King Philip, to that saying of his, We have both the one power and the other, made this reply in behalfe of his Matter; Yours is verball, but ours is reall, as it is related by an English historian.

In cap. 3, digress. 10.

Epistola Bonifacii 8. ad Episcopos regni Francie.

Matth Westmonast. l. 2. sub ann. 1301.

17 Innocent the third did the like in his scuffle with Philippus Augustus: his Epistle to the Bishops of France was put among the Decretals, wherein he omits no art to nuzle them up, and perswade them that his proceedings against the King, and putting their Kingdome under an interdict was just, (as the learned Cujacius hath very well observed) and indeed his projects throve so well that he wonne their consent at last. Hearke how a French Hiltorian of ours speakes of it. The whole countrey of the King of France was interdicted; at which the King being highly offended after he had notice of it, he stripped all his Bishops out of their Bishopricks, because they had consented to that interdict; and commanded that their Canons and Clerkes should be put out of their livings, expelled out of his dominions, and their goods confiscated: he discharged also the Parish Priests, and seized upon their goods. The French Bishops at first did stiffly oppose Gregory the fourth, who siding with the children against the father, was minded to come into France to excommunicate Lewis the Gentle; and

Rigordus de gestis Philippi Augusti sub ann. 1099.

Henry the 3.
refused to re-
ceive it.

^a *Aymonius* l. 5.

c. 14.

^b *Theganus de*
gestis Ludovi-
ci imperatoris
cap. 43.

Idem cap. 44.

Histoire de
Rheims livre 2.
chap. 18.
Ibid.

See this orati-
on printed at
Paris the same
yeere.

Extrait du re-
gistre de l'as-
semblée tenue
à Paris sous le
nom de États
l'an 1593.

De justis Hen-
rici 3. abdicat-
ione Franco-
rum regno.

they had put on this resolution, *To send him home againe excommunicated, if he came there to excommunicate.* But when all came to all, he had such a stroke over them, that he made them not onely^b abandon, but depose him. He was vexed by all his Bishops, (saith an ancient Historian) and more particularly by them who were raised to those dignities from a low degree, and such as comming out of barbarous Countries were preferred to that height of honour. And he afterwards addes, *They said and did such things as the like were never heard of; using reproachfull speeches towards him, they tooke his sword from his side upon the judgement of his servants, and wrapt it in a sackcloth.* It is true indeed that not long after repenting themselves of their proceedings, they restored him to his former dignity of which they had despoiled him. And the Archbishop of Rhemes, Ebon by name, who had beene the maine man amongst them, declared himselfe in writing, *That whatsoever had beene attempted against the honour of the Emperour, was against all right and reason.* And yet wee must not accuse all the Bishops of France for this: for many of them were offended with it; and particularly those of the province of Belgia deposed Ebon their Archbishop upon this occasion, condemning his proceeding herein. But let us now returne to our intended subject.

18 One of the Kings Lieutenants generall for administration of justice in an assembly of the States particular under the late King 1588. *For the reestablishing (saith he) and better settling of Christian religion within this Kingdome, our suit unto the King is, that like a most Christian and eldest sonne of the Catholique Church, he would receive the Councell of Trent, and cause it to bee inviolably observed by all his subjects.* If any here will interpose, and tell me that there are some articles in it which are repugnant to the liberty of the Gallicane Church; and some others which seeme too harsh and against the forme of justice now used in France; I answer, that the Lords spirituall may more wisely advise of this in the assembly generall of the States; and if need so be, communicate it with the other Orders, to make a Remonstrance thereof to our holy Father the Pope. By this meanes all those Edicts, which, to the great regret of the King, the Princes, and Catholique subjects, by reason of the necessity of the times did tolerate this medley of religions, shall be repealed and abolished.

19 Amongst those great disorders of this Kings reigne, this very Councell was called in question in the Assembly at Paris, which was holden in the name of the States in behalfe of the league: where it is remarkable that those who had shaken off the Royall yoke, and undermined all the fundamentall lawes of this Kingdome, how distempered soever they were, yet they had their judgements so sound, as to discern a good many decrees in that Councell, which were prejudicial to the liberties of this Kingdome. As appeares by the extract which was published hereupon. We may observe by the way, that those who raised the most false and abominable calumnies against the late King that ever were heard of, in all their defamatory libels never objected this unto him, that he refused to receive the Councell of Trent. I will use no other prooffe than of that damnable script hammered out in hell, *Of the just deposall of Henry the third from the Kingdome of France;* which sets downe the causes of his excommunication, making him a murderer, a heretique, a favourer of heretiques, simoniacall, a sacrilegious approver of duels, a profaner of religious persons, a confederate with heretiques, a spender of the substance of the Church without any leave from the Pope, a falsifier of the letters Apostolique, a superstitious fellow, a detainer of Churchmen. But not one word of the Councell of Trent, although he had in that point beene disobedient to the Popes will, and made small account of his earnest and often request; for it is certaine that all the speeches which come to our hearing, were delivered in his behalfe, and upon his motion.

20 Nay more, hee did not receive so much as those very Decrees of the Councell which were no way repugnant to our liberties, and the observation whereof was necessary for the Ecclesiasticall policy: but suppressing the name of the Councell, they decreed the very same things in the Parliament at *Blois* 1579. (a plaine prooffe, that it was rejected by the common consent of all *France*.) Which is evidently verified by comparing the Decrees of that Councell with the Articles of this Assembly; as in those places where they speake of the residence of Bishops, the maintenance of Curats, erection of Schooles and Schoolemasters, the bringing of exempted Monasteries under the visitation of certaine congregations, the age required in religious men and women before they professe, the age of such as enter into holy Orders, the visitation of Monasteries by Bishops, the reinforcing of the cloysture of religious houses, Prebends for Divines, asking the banes of Matrimony before Marriage, and such like. Yea more, in many of these points they derogate from the Decrees of the Councell, and prescribe quite different from that which is there set downe. The like was done before by an ordinance at *Orleans* set forth in the time of the Councell 1561. Whereby our Kings have shewne the power they have in matters of Ecclesiasticall discipline, and the sleight regard they had to that silly Conventicle.

21 We will conclude then, that seeing two of our Kings, very zealous in their religion, assisted by a Councell no way lyable to suspicion, would yet never give way to this publication so often entreated, desired, and urged from them, it must needs follow that this Councell comprehends something prejudiciall to this State: considering withall, that all the mitigations which are sought after now adayes were then proposed, as namely that it might bee received without any prejudice to the liberties of the *Gallicane* Church, and without ever drawing the sword against those of the Religion, which are the two maine plaisters which seeme to salve up all the badnesse that is presumed to ly lurking in it. It remaines now that we shew the true reasons of this refusal; which we shall doe by laying downe the nullities which are both in the forme and matter of it.

The decrees of the Councell in part received, but not as of the Councell.

a *Concil. Trid. Sess. 6. c. 2. Ordon. de Blois artic. 14.*

b *Concil. Trid. Sess. 24. c. 13. Ordon. de Blois artic. 22.*

c *Concil. Trid. Sess. 23. c. 18. & seq.*

Ordon. de Blois art. 24.

d *Concil. Trid. Sess. 25. c. 8. Ordon. de Blois artic. 27.*

e *Concil. Trid. Sess. 25. c. 15. Ordon. de Blois art. 28.*

f *Concil. Trid. Sess. 23. c. 12. Ordon. de Blois art. 29.*

g *Concil. Trid. Sess. 21. c. 8. Ordon. de Blois art. 30.*

h *Concil. Trid.*

Sess. 25. c. 5. Ordon. de Blois art. 31. i Concil. Trid. Sess. 5. cap. 1. Ordon. de Blois artic. 33. & 34. k Concil. Trid. Sess. 24. cap. 1. Ordon. de Blois artic. 40.

D 2

CHAP.



CHAP. III.

That the Pope, being a party, could not call the Councell, nor preside in it : and that there was an appeal from him.

The Pope was
a party.



Nullity in the forme of this Councell is argued first from this, that it was called by the Pope, and that he did preside in it, yea and did deferre and transerre it at his pleasure. The plea hereupon is this, That the Pope was a formal party, that it was he was urged to a reformation ; and therefore it is said, that he could not be judge in his owne cause : and that

he should have left both the one and the other to the Emperour ; according to the opinion of a great Doctour of the Canon law ; who after hee hath concluded that the calling of a Councell belongs to the Pope, addes notwithstanding, that in default of the Pope, that right belongs to the Emperour ; now there can be no fairer opportunity than when the Pope is taken for a party. Another Doctour saith, that the defect of that power in the Church is supplied by the Emperour. And another yet, that when the controversie is touching the Pope and his cause, then his authority is not requisite for the calling of a Councell. It is a rule of law received amongst the Canonists themselves, that when the will and consent of any man is required to some act, such requirall hath no place then, when a point is pleaded against himselfe.

2 *Ludovicus Bavarus*, and all the States of Germany with him, doe plead this nullity against the sentence and proceeding of John the 22. and of his Councell. *The third reason* (saith he) is, because no man ought to bee judge in his owne cause, and doe justice to himselfe ; but it is a plaine case that this said John pretended to have a plenitude of power over us and our Empire, even in temporall matters ; and did actually conspire against us and the lawes of the Empire, which he attempted to usurpe, and caused us to be pursued like an enemy.

3 The glosse upon the Canon law, saith in expresse termes, that the Pope cannot bee both judge and party in any case whatsoever. Hence wee collect (saith it) that if the Pope be at variance with any body, he ought not to be judge himselfe, but to chuse arbitrators. Some of the Canonists have written also, that when the Pope is accused of false doctrine, hee hath no more power to call Councells. All these reasons hold good, supposing the Pope to have by right the power of calling generall Councells ; which yet is denied, as we shall prove more at large in another place. Besides, there were some appeals put up from the Pope to the Councell, as is related by *Sleidan* in the first of his Commentaries. *Luther* (saith he) being advertised by *Cajetans* letters, that they would proceed against him at Rome, he thereupon drew a new appeale November the 28. and a little after, being pressed and pinched with extreame necessity, hee was glad to appeale from the Pope, to a future Councell. And also by the Archbishop of *Cullen*, being excommunicate by *Paul* the third, 1546, because he went about to reforme his Church, contrary to the Bull set forth by *Leo* the tenth against *Luther* and his adherents, appealed thereupon to the future Councell.

4 Wee have discoursed in the last book (saith *Sleidan*) how the sentence of excommunication was denounced by the Pope against the Archbishop of *Cullen*, upon the sixteenth of April, who having certaine notice of it the fourth of November,

a *Robertus Mervanta specul. aur. part. 6. In verb. Et quandoque appellatur num. 32.*

b *Barbatus in cap. quod translationum. Col. 32. de offic. legati.*

c *Johannes apud Baldum. Baldus in cap. olim ad finem extrav. de rescrip.*

d *Naucerus volum. 2. generat. 45.*

e *Can. 22. q. 3. inter querelas C. ne quis in propria causa in rubro & in nigro.*

Gloss. in Can. Consuetudo 16. q. 6.

* *Decimus in cap. cum venissent. nu. 37. extra de Judic.*

Sleidan comment. lib. 1. not contradicted by Surius and Fontanus.

Sleidan. comment. l. 18. not contradicted by Surius and Fontanus.

member, he put forth a book presently after, wherein he gives his reasons why he refused the Pope for his judge, because he had stood a long time accused of heresie and idolatry: Wherefore hee appealed from his sentence to a lawfull Councell of Germany, wherein he protested so soone as it was opened, he would implead the Pope as a party, and prosecute against him. The Protestants, as is well known, did the like diverse times. There was also another appeal to a future Councell put in by the University of Paris, May the 27. 1517, about the repealing of the Detrees of the Councell of Basil, and of the pragmatique sanction, by Leo the tenth. In the act of which appeal, these words are inserted; *Wee the Rector and the University, finding our selves grieved, wronged, and oppressed, as well for our selves, as for all others subject to our University, and all such as will take part with it, doe appeal from our holy father the Pope ill-advised, to a future Councell lawfully assembled, in a safe place, whither we may freely and boldly goe, about the abrogation of the Councell of Basil, and the pragmatick sanction lately set forth by these new decrees.* Notwithstanding which appeal the Pope was set over the Councell by the Fathers assembled at Trent. Now it is a thing never seene nor heard of, that hee from whom the appeal is made, should be judge in the very case of appeal: for our Doctours finde, that the judge from whence an appeal is made, may be refused in all other causes, which concerne the appellat, so long till the appeal be void.

Appeal was made from the Popes

Extat in fasciculo rerum expetendarum pag. 36. Et de ea Lang. gius in Chron. Citiensi sub anno 13. Robertus Maranta in specul. aur. part. 6. in verb. Et quandoque appellatur, num. 61.

CHAP. IV.

That the reformation of the Pope was the thing in question.



It is further alledged, that Pope Adrian the sixth, did freely confesse by the mouth of Francis Chregat; Lord Bishop of A-bruzzo his Legat, at the Dyet of Noremberg 1522, that the See of Rome was corrupt and depraved, and that the corruption of the Church was derived from the Popes; wherefore he did promise, they should have a free and generall Councell. Now this acknowledgement doth disable him for being head of the Church. This is further verified by his owne instructions given to his Legat; where in the tenth article he saith thus:

2. Wee know that within some yeeres agoe, some abominable things have crept into this holy See, some abuses in matters spirituall; some transgressions of Commissions, and all out of order; and it is no marvaile if the infection descended from the head to the members, from the Pope to the under-Prelates. Wee have all degenerated, (I meane we Ecclesiasticall Prelates) we have gone astray out of the way; there is not one that hath done good this long time, no not one. Wherefore, for as much as concernes us, you may assure your selves, that we will take paines in the first place, to reforme that Court from whence happily all this evill hath come: to the end that as the corruption proceeded from thence to the inferiour orders, so soundnesse and reformation may come thence also. Which to doe, we perceive our selves so deeply obliged, that wee see the whole world call for a reformation. Howbeit no man must admitt if hee do not see an absolute reformation of all errours and abuses in an instant; the malady is too far spread, and too deep rooted. Wee must goe step by step to the cure of it, and hyc to

Extat in fasciculo rerum expetendarum, pag. 17. Et refertur idem verbum a Rovero Pontifici Carmelita. 2. rerum memorab. p. 74. Et a Claudio Espensao, in commentis in Epist. ad Titum, cap. 2.

Popes needed
reformation.

such things as are of most importtance and greatest danger, for fear of putting all out of joynt, by attempting to reforme all at once. All suddaine changes are dangerous in a Common-wealth, saith *Aristotle*; and hee that wrings the nose hard, brings forth blood. Marke here the words of that honest *Adrian*. So that it hath been conceived the common voyce of Christendome for these two hundred yeeres almost, that it was fitting there should bee a reformation *in capite & in membris*, both in the head and the members: but the Popes wrought so well by their schismes, shifts, and tricks; that the endeavors of those that ingaged themselves herein, were to no purpose; and the Synods called about this were all to no effect, and fruitlesse. The Councell of *Constance* after the deposall of Pope *John* the twenty third, had made this good decree.

Council Constant
Sess. 40.

3 That the new Pope who should be next chosen, together with the Councell before he departed from thence, should reforme the head of the Church and the Court of Rome, about such articles as had beene put up by the people and nations. But Pope *Martin* the fifth, as soone as he was created, did quickly shift himselfe from those who cryed so for a reformation, and amongst others from the Emperour *Sigismund*, who was more hot upon it than any else. *Platina* gives the reason of that delaying; 'A matter of that weight being finished as well as heart could wish, by the travaile and endeavour of all the Princes, both Ecclesiasticall and Civill, but especially of the Emperour *Sigismund*: they begun to talke of the reformation of the manners, both of the Laity and Clergy, which were much debauched by overmuch licentiousnesse. But because the Councell of *Constance* had continued foure yeeres already, to the great incommodity both of the Churchmen and their Churches; it seemed good to *Martin*, with the consent of the Councell, to defer a matter of such importance to a more convenient time. For hee said, the thing required maturity and deliberation; seeing that, in *Hieroms* opinion, every country hath their severall customes and conditions, which cannot bee removed on a sudden, without disorder. They have had leasure enough to thinke of it since, for wee are yet consulting about it, and nothing at all hath beene done besides.

Platina in vita
Martini 5.

4 The acts of that very Councell, and of that at *Basil*, and others since, give us sufficient prooffe hereof; who being not able to compasse this reformation, put it off from hand to hand, and commended it in succession one to another; ordaining that the keeping of Councells should be every ten yeeres, but so as the first should be within five yeeres, and the next within seven: and this principally to provide for the reformation of the head and the members. The second *Pisan* holden 1512, which was assembled for the same ends, was so belaboured by *Julius* the second, and *Leo* the tenth, that it was constrained to yeeld to their merrey, and give place to the *Lateran*, which was called for no other end, but to countermine and disannull that other, as is confessed by the historian of the Popes. These good Fathers, however they were for the most part French-men, have left us in their acts, a testimony worth our observance, and that is that, 'For many yeers there had not been any general Councells: and if any were called, as the first at *Pisa*, and that at *Constance*, *Sene*, *Basil*, and *Florence*; yet the Church could not be reformed to the purpose, by reason of those impediments and cavils which were procured thereupon; which befell themselves also. For *Julius* the second, and *Leo* the tenth, had the wit to winne first *Maximilian* the Emperour, and then the Cardinals that were at *Pisa*. King *Lewes* the 12, after the death of *Julius*, suffered himselfe to be led away with the blandishments of Pope *Leo*, considering withall the danger wherein to the first had put both him, and all the Kingdome of *France*, (against which he had procured the Kings of *England* and *Spaine* to take armes) insomuch that

* Onuphrius in
Folio 2.
b Acta Concilii
Pisani 2.
Luteri ex cau.
s in vico divi
Jacobi ad in-
ter signum lilii
aurei. Et Me-
diolani per Go-
vardum Ponti-
cum ann. 1512.
Vi. Acta Con-
cilii Lateran.
Sess. 3.
Et Onuphrius
in Fol. 2. Arno.
Ferreus, in Lu-
dovico 12.


that renouncing the Concell of *Pisa*, he acknowldged that of the Pope, and caused certaine Ecclesiasticks of his Kingdome to doe as much. But from that time till this, we could never see this reformation; for as for the Councils of *Lateran* and *Trent*, they never cared for meddling with it. Which was worthily represented by Monsieur *Arnald de Ferriers*, the French Ambassadour at the Council of *Trent*, in an Oration delivered by him, September the 22. 1563, where he said, *That they had been entreating for a reformation of the Church in the head and members, above 150 yeeres to no purpose, and that in sundry Councils, as those of Constance, Basil, Ferrara, and the first at Trent; and that the demands which were made in that of Constance, by John Gerson, Chancelour of the University of Paris, in behalfe of the King of France, may bee read to this day: as also those that were made in behalfe of the same Prince, by M. Peter Daves, at the first Trent Council.*

Protestants pre-
posterously first
condemned, the
summoned.

*Vi. Acta ejus-
dem Concilii,
Lateran. ult.
sess. 8. 6. 9.*

CHAP. V.

That the Pope had passed sentence before: and that he was moved with hatred against those whom hee summoned to the Council.

I  Omplaint is also made, that the Pope should shew himselfe so passionate, that before the calling of the Council, and after that, before the holding of it, hee condemned the doctrine of those who were summoned to appeare there in judgement, and declared them to be heretiques: which gave them just occasion of suspition, and instructed them to goe wisely and warily about their businesse. By reason whereof they say, they cannot justly bee blamed for desiring to quit his jurisdiction, and making so much adoe about the forme of the Council, and the persons of the judges; seeing these are things which must be looked to at first, and before wee enter the lists. Now that their doctrine was condemned by them who desired to be their judges, is verified by the Bull of *Leo* the tenth, bearing date the 8. of June 1520, where after he hath reckoned up *Luthers* opinions, concerning the Sacraments of the new testament, the Eucharist, repentance, contrition, confession, satisfaction, absolution, veniall and mortall sinnes, indulgences, the Popes excommunications, priests, generall councils, workes, heresies, free-will, purgatory, and the Catholick Church, he decrees as followeth. *Wherefore, by the advice and consent of our reverend brethren, and by their mature deliberation, by the authority of Almighty God, the blessed Apostles Peter and Paul, and our owne; we condemne, disprove, and totally reject all and every the foresaid articles, or errors, as hereticall, either scandalous or false, or offensive to pious ears, or tending to the seduction of simple soules, and contradicting the Catholique truth. And we decree and ordaine by these presents, that by all faithfull people of both sexes, they bee holden for condemned, disproved and rejected.*

*Can. quod sus-
pecti & ibi
gloss. 3. 4. 5.*

*Extat in col-
lect. diversa-
rum Constitut.
Romanorum
Pontif. part. 2.
pag. 158.*

2 It may be answered, that Pope was dead when the Council was held, and another sat in his stead whereof they needed have no such feare. To which we reply, that there was indeed an alteration of the persons, but not of the conditions nor proceedings. For *Paul* the third, when hee begun the Council at the very same time, which he designed for the calling of it, declared

The Popes har-
red to some
whom he sum-
moned.

In eadem col-
lect. Divers.
constit. part. 1.
pag. 240.

Sleidan. l. 11.
not contra-
dicted by Surius
or Fontanus.

Sotom. l. 3. c. 5

Sleidan. l. 11.
approved by
Surius.

V. libel. de Ec-
cles. Gallic.
stat. in schisma.
pag. 178.

Theodoret. l. 1.
c. 28.

red that the end of it was the extirpation of the *Lutheran* heresie; as appears by a Bull of his, bearing date the 23. of August, 1535, entitled, *Deputatio executorum super reformatione Romanae curiae*, marke the words of it: *Whereupon we, desiring to provide for the Church, and to cleanse her of all her staines, have determined to appoint and solemnize a Generall Councell, upon earnest and urgent motives, which concerne the state of the said Church and See Apostolique, and the extirpation of the plaguy Lutheran heresie, and others, having already dispatched our Nuncio's to Christian Princes for that purpose.*

3 This Bull came to the Protestants ear; for heark what they say of it in the declaration which they made at the assembly of *Smalcald* 1537. Besides, not only because the Pope is a party, but seeing hee hath already condemned our doctrine long before, hee is growne more suspicious. And who can doubt what judgement will passe upon our doctrine in his Councell? Yea more, hee confesseth that the cause of publishing the Councell is, that the new-sprung heresies may be rooted out: 'Tis true, that may beare a larger construction; yet there is no question but he meanes of our doctrine, seeing it is scarce credible that hee should speake of his owne faults. And that it is so he hath published another Bull since, about the reformation of the Court of Rome, wherein hee confesseth down-right without any flattery, that a Councell is called for the rooting out of the pestilent heresie of Luther. Seeing the case stood thus, they had beene mad to have put themselves upon that Councell, to abide the judgement of him who had condemned them already. Considering withall that *Leo* the tenth, in the precedent Bull, saith; how he hath caused their doctrine to be pronounced hereticall by a conclave of Cardinals, and also by the Priours of the religious Orders, and by a pretty company of Divines and Doctors in both the *Laves*. So that they had but even gone to be whipt, as *Hosius* of *Corduba*, to the Councell of *Antioch*, in case they should have refused to subscribe to the determination of the Councell. It is a folly for a man to cast himselfe upon such disasters, and a peece of discretion to avoid them. *Maximus* patriarch of *Constantinople*, would not be seene at the Councell of *Antioch*; because he foresaw that if he went thither, he should be constrained to subscribe to the depofall of *Athanasius*, for which he was never yet blamed by any body. To conclude this point, it is holden for a ruled case in law, that a judge who hath discovered his opinion already, may be refused; much more hee who hath passed the sentence before he be made judge. Adde we hereunto the mortall hatred of the Pope against Protestants; the Pope, I say, who calls the Councell, who summons none to judgement but his owne creatures, who must preceed there either in person or by his Legats, and must be supreme moderator and judge in all things. This point of the Popes enmity against protestants, and all those who have ridde themselves out of the Popes servitude, is so well knowne that it needs no prooffe. *Henry* the eighth, King of *England*, then a Catholique, laid open the hatred of the Pope against him and his subjects, as an excuse for not going to the Councell. For he saith, *That the Pope hates him mortally, putting him out of favour with other Kings as much as he can; and that for no other reason but because he had cast off his tyrannie, and had made him loose his yearly rent; and for this cause he could not come thither.*

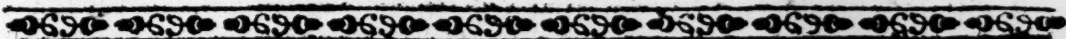
4 *Henry* the second, King of *France*, complaineth also how Pope *Julius* the third, instigated by the ill will which he bore him, without any sufficient reason, had denounced warre against him during the time of the Councell, depriving him thereby of the meanes of sending the Prelates of his Kingdome thither: whereupon hee made those protestations which wee mention elsewhere. This consideration makes a nullity in the Councell, and serves for a lawfull excuse to such as would not goe thither. For in this case, hee who is summoned to a Councell is not bound to appeare. So *Athanasius* (saith *Theodoret*)

doret) knowing the hatred of his judges against his cause, went not to the Councell of Cesarea. Which was purposely called for him, and yet no man ever said, ill did he. An enemy should not be a judge.

5 Anastasius Bishop of Perrhenue, was three times summoned by his Patriarch, before he was deposed, and yet that depofall was judged unjust by the Councell of Chalcedon, after it appeared that he was his enemy. Caus. quod susa pecti 3. 4. 1.

6 Pope Gelasius, speaking of the Bishops of Constantinople, with whom he had some bickerings, saith something which is very remarkable in these times. For the question being about the taking up of their quarrell, he speaks thus, *I aske, where is that which is able to passe the judgement which they pretend? shall it be amongst them? so the same enemies should be both witnesses and judges: but even humane affaires ought not to be committed to such a judgement; how much lesse divine and ecclesiasticall, every wise man doth perceive.* Say we then, that those who were out of favour with the Pope and his adherents, were wise and well-advised, that they would not trust themselves to his judgement. D. Can. quod suspecti.

7 Pope Nicholas the first, who quotes these two examples in an epistle of his to the Emperour Michael, gives us this rule, *That our enemies, and those whom we suspect, should not be our judges.* Which (as he saith) was decreed at the Generall Councell of Constantinople, and gives this reason of it, *Because nature teacheth us to avoid the plots of suspected judges, and refuse the judgement of our enemies.* After all this Gratian makes this conclusion, *That how manifest so ever a mans offences be, he should not for al that be condemned by his enemies.* It were superfluous here to alledge the Civill Law, to prove that the enmity of the judge gives sufficient cause of refusing him in point of judgement, seeing it is a matter well enough knowne. Nicholaus papa in Epist. ad Michaellem Imper. & d. Can. quod suspecti. Robertus Maranta in speculo aureo part. 6. In verbo: Et quandoque appellatur. num. 35.



CHAP. VI.

That the Councell was holden in the midst of divers troubles and tumults.



HE hatred of the Pope towards the Protestants and the King of France, did shew it selfe so fully, before that it burst out into cruell warres. Where we may observe an egregious nullity of the Councell in all the Sessions thereof, in that it was begunne, continued, and ended amongst the troubles raised against the King of France, the Protestants of Germany, and them of the Religion in France, by the instigation and inducement of the Pope and his instruments. This is evidenced by the very acts of the Councell it selfe, for at the end of the tenth Session holden September the 14. 1547. the Cardinall de Monte, the Popes Legat, and President of the Councell, speakes thus, *Besides these difficulties, there is the heynousness and enormity of an unexpected accident which befell the person of the most illustrious Duke of Placentia, which doth so take up our employment for the defence and safeguard of the liberty of the Cities which belong to the Church, that we our selves are not in safety one houre, no not one minute of an houre.* The Popes Legats make this remonstrance in the sixth Session, *That of a suddaine there are such broiles and such warres kindled, (they are the very words of the Councell) that the Councell is constrained as it were to stop it selfe, and breake off its course, with no* small

Wares in Ger-
many.

Steidan. l. 16.

small inconvenience; and all hope of proceeding further is now quite taken from it; and so farre is the holy Councell from redressing the evils and incommodities of Christians, that contrary to its intentions it hath rather irritated than appeased the hearts of many. Pope Pius the fourth, in his Bull of the publication of the Councell, which was for the continuation of it, bearing date the 30. of Decemb. 1560. affords us such another testimony, But (saith he) as soone as new broiles were raised in the neighbouring parts of Germany, and a great warre was kindled in Italy and France, the Councell was afterwards suspended and adjourned.

3 But it is requisite we make these troubles more plainly evident, seeing it is a most just exception against the Councell. The Protestants complaine that the over-hasty resolution made by the Fathers in that Councell, was purposely to wage warre against them. The Duke of Saxony and the Lantgrave of Haffia say so downright in their letters. Whereas you buckle up your selves to set upon us with force, without once telling us the reason why, wee referre that to God, and as soone as we shall know what yee accuse us of, we will answer so as every one shall say that we are wronged, and that ye undertake this warre by the impulsion of the Antichrist of Rome, and the wicked Councell of Trent. Though wee give no credence to these letters, yet let us heare what Pope Paul the third saith to it in his letters to the Switzers of the third of July 1546.

Exat hae Pau-
li Epist. ad Hel-
vetios, Paris.
impressa in Of-
ficina Calderia-
na ann. 1547.

3 We thought the obstinacy of these villaines would put us upon the necessity of falling to force and armes: but having oft considered what was to be done, praying God to let the light of his divine counsell shine upon us, it is false out fitly, that our most beloved sonne in God, Charles, Emperour of the Romanes, ever Augustus, being offended meerly with the same villanies of those rogues that we were, and for that a Councell being granted by us to the German nation, mainly by his meanes, and at his entreaty, those who despise it despise also his authority, and all that he hath done concerning it, (as some doe very unjustly and sawcily) hath resolved by force of armes to revenge the holy cause of wronged truth. Which occasion, as being without doubt offered unto us by God himselfe, we very readily embrace, being resolved to second the good intentions of that great Emperour, with all the meanes and forces which either we or the Church of Rome can raise.

4 Now that the Councell of Trent hath had a hand also in that designe of war, not onely the Historians relate, but it may be fairly concluded from hence, that they never gainsaid it. For it is not any way likely that they should suffer such a warre to be made under their noses, and they not approve of it. While the preparations were made for it, nay while the armies were in the field, and that under the conduct of Octavianus Farnese the Popes nephew, and all was in an uproare and combustion, the Councell made decrees about the controversies of greatest importance, when there were but a very small number of Bishops there.

Onuphrius in
folio 3.

5 When Julius the third came to the Popedom in February 1550. upon the Emperours intreaty hee ordained, that the Councell should bee continued. Where we may observe, that at the very same time a warre was denounced against King Henry the second, by the Pope and the Emperour, and that upon an unjust quarrell. Which is proved out of Onuphrius, an Historian of the Popes, in the life of that Julius. He gave some hopes (saith hee) of composing the differences in religion, when at the request of the Emperour hee declared by his Bull in the first yeere of his Popedom, that the Councell should be continued at Trent, at the beginning of the next May. And presently after he addes, He unwittingly put himselfe upon the warre of Parma, and thereby set all Italy, nay all Europe on fire. Another Catholique Historian saith, During the time that these things passed upon the frontiers of Flan-
ders

Natalis Comes
lib. 1. h. 1. sui
temporis

• ders and Picardy, the Pope, at the Emperours request, summoned the Councell to Trent, for the extirpation of heresies. Because it was plaine that *Bonia*, whither it was adjourned by reason of the plague, was no free place for them all. Then hee prosecutes the narration of the *Tarman* warres now lately begunne. So then the Pope makes warre on the one side, and keepes a Councell on the other; this is truly and without a figure, to beare St. *Pauls* sword, and St. *Peters* keyes. The first Session upon the first of May, and the second upon the first of September 1559. were onely for Ladies, for there was nothing done. King *Henry* set forth an Edict at the same time, dated the third of September, in the same yeare, containing a restraint of transporting gold and silver to *Rome*: where he sets downe at large the occasions of the war of *Parma* begun by the Pope, and amongst other things he saith, *Which holy father upon a suddaine fit of choler, had caused a certaine company of men of warre, both horse and foot, to be levied and set forth, and also enticed and perswaded the Emperour (with whom we were in good termes of peace and amity) to take armes, to aid his forces in the designe of the recovery of Parma, and after hee had harraased and laid waste all things wheresoever he pleased in the Countrey of Parma, he caused his said forces to march towards the territories of Mirandula; which hath for a long time, even during the life of our late most honoured Lord and Father, been in the knowne protection of the crowne of France, which hee beleaguered, using most incredible and inhumane cruelties towards the inhabitants of the said territory, yea such as barbarians and infidels would not have used the like: giving the world to know very stoutly that he meant them toms, who have not deserved any such thing at his hands or the Holy See.*

Warre of Parma in the time of the Councell.

Edict du Roy
Henri 2. imprimé
à Paris l'an
1551.

6 There were six Sessions holden in the time of that warre, the two wee spoke of, and foure more; in two whereof the most materiall points of faith, of manners, and Church discipline were discussed and determined: as those, of the blessed sacrament of the Eucharist, Transubstantiation, the sacraments of Penance and Extreme Unction: as also about the jurisdiction of Bishops; where many blowes were strucke at the liberties of our *Gallicane* Church, and the rights of the Crowne. Now the warre continued all the time of these Sessions without any intermission, for there was no respite of peace, save in May 1552. what time the said King put forth another Edict derogatory to the former, whereby he licensed the transporting of gold and silver to *Rome*. Wherein he saith, *Our holy father the Pope having now of late made knowne the love and affection which his Holinesse beares continually towards us, by good and honest demonstrations, &c.* But the Sessions we mentioned were ended before this; for the fourth of them was upon the 25. of November 1551: and for the two following, they did but bandy for balls in them, for they treated of nothing but the safe conduct of Protestants, and the suspension of the Councell. Now the writing sent by the same Prince to all the States of the Empire, February the third 1552. witnesseth that during those Sessions all was on a fire; where after he hath laid downe the originall and progresse of the warre of *Parma*, and laid the blame of it upon the Pope and the Emperour, whom he impeacheth also of other things, he proffers his helpe and assistance to the Princes of the Empire. *We offer (saith he) of our free and princely pleasure meerly, to deliver the German nation and the sacred Empire, from that servitude wherein it now is; to gaine thereby, as Flaminius did in Grece, an immortall name and everlasting renowne.*

Another Edict
of K. Henry the
2. made at the
Camp nere
Weldenagges
May 21. 1552
and printed at
Paris the same
yeere.
The Kings letters
to all the
States of the
Empire, printed
at Paris 1552.

7 From this time till the beginning of the yeare 1560. our Councell did starke nothing; what time *Pius* the fourth, so soone as he got into the chaire, sent forth a declaration for the continuation of it against Easter day the next yeere; this Bull was dated November the nineteenth, or (as some copies have it) December the thirtieth 1560. The first Session was the eighteenth of Ja-

Warres in
France.

nuary 1562. the last, December the third 1563. during which time there was nothing but troubles and turmoiles in *France*, so that those of the religion there have good reason to say, that nothing could then be passed in the Councell to their prejudice, they being debarred of the meanes of going thither. It is plain, first from the Edict of pacification in January 1561, that at the time of the calling it, there was a great deale of stirre in *France*, and that they had something else to thinke of, than of making ready to goe to the Councell. For it is said at the beginning thereof, *It is too well known what troubles and seditions have beene heretofore, and are daily raised, abetted and augmented in this Kingdome, by reason of the badnesse of the times, and the diversity of opinions in point of religion, which now reigneth.* This Edict thus made for the good of the Country, it was requisite to sue for the publication of it, by reason of the difficulties raised against it by the Court of Parliament; this hung on till the sixt of March in the same yeere, what time the publication was made in some kinde by constraint; witnesse those words, *Obeying herein the Kings pleasure, without the approbation of the new religion, and all by way of caution.* Yea more, six dayes before, upon the first of that moneth, was the execution done at *Vassy*, against them of the religion, which impestered this Realme in more troubles than ever: The Duke of *Guise* making his party the strongest at Court: The Prince of *Conde* being retired to *Orleans*: which they went about to reforme quickly after, in April next. So that King *Charles* set forth a declaration upon his former Edict, where he saith towards the beginning; *Whence it is the more strange, that some of them are now risen up in armes, and have assembled themselves in great number, as wee see in sundry places; and namely in our City of Orleans, under pretence of a certaine feare, which they say they have, least they should bee debarr'd the liberty of their conscience, and the enjoying the benefit of our Edicts and ordinances in that behalfe.*

8 They had reason to be afraid, lest their consciences should be rifled in such sort, as were those of *Vassy*. About the time of the first Session, all was in an uproare in this Realme, and there was nothing settled concerning the peace; as may be gathered from an answer made by the Queene mother to Mounseigneur the Prince of *Conde*, dated the 4. of May 1562, where amongst other things it is said, *In regard of the violence, oppressions, murders and outrages, committed since the edict, and in despite of it, both by the one side and the other, her Majestie will cause such justice to be done, and amends to be made as the case shall require, both for publick satisfaction, and also private to such as have received any wrong.* And also from an edict set forth by the late King of *Navarre*, Lievetenant Generall for the King over all this Realme, dated the 26. of May 1562, containing an injunction to some suspected persons of the religion, to depart from *Paris*. Where it is said, *As for the putting in execution of the designe which we have undertaken to performe out of hand, with the army of our said Sovereigne Lord the King, against those that hold some cities of this Kingdome, with prejudice to his authority, and the obedience which belongs unto him; We have determined to depart within a few dayes from this City of Paris, with the said army, and to cause all the forces both horse and foot, as well within the said city as without, to march along.*

9 There was also another declaration set out concerning the edict of peace, by the same King *Charles*, at *Amboys*, March the 19. 1562. but it was not put in execution till the next yeere about June; what time the King sent certaine Commissioners through the severall Provinces to that effect; as appears by the copy of the Commission given out thereupon, dated the 18. of June in the same yeere. And yet notwithstanding our Councell was consummated the fourth of December 1563. The Cardinall of *Lorraine* in an oration of his, delivered in the Councell, November the 23. 1562, makes a long story of our miseries

Print Parisia
impressa apud
Johannem D.
Allier an 1563
Et in Actu Con-
cilio.

miseries in *France*, and the warres which were a foot there. *There is no sparing of any thing* (saith he) *armies are raised. succours are called in from all parts, entry is made by force; yea, the sword pierceth our hearts, how victorious soever our hands be: Our goods are taken from us, and the Kingdome is brought to a miserable passe.* So then the case standing thus, there is never a Lawyer but will constantly affirme, that as much as concernes those who went not thither may be righted, and that all things should bee restored to the state wherein they were at first.

Wailes, a just
exception a-
gainst the
Cuncell.

10 The Kings of *France* by reason hereof did prejudicate their subjects of the religion (yea and their Catholiques too) whom they re-estate in their former right; *Notwithstanding all processees made, judgements and arrests granted during the troubles. Non-suits, prescriptions, both legall, conditionall, and customary, attachements of feuds, which happened during the troubles, or issued from thence by course of law.* It stands with better reason, that all should bee re-established, which concernes point of religion; which hath ever beene as good a cause of replacing all things in *statu quo prius*, as absence. Which is plaine from the discourse of Pope *Liberius*, with the Emperour *Constantinus*, in the case of *Athanasius*; from the letter which Pope *Julius* writ thereupon to them of *Antioch*; and from that passage of *S. Hilary*; 'I omit that the judgement of the Emperour was passed without hearing of the cause: Nor doe I repeat how the sentence was extorted against one that was absent, (however the Apostle saith, That where faith is, there should be liberty, the simplicity of the priesthood should not endure this;) but I omit these things, not because they are to be sleighted, but because there are others more intolerable. The same may we say of the Councell of *Trent*.

Edict de pacifi-
cation de l'an.
1573. art. 15.
de l'an. 1576.
art. 32. & 37.
de l'an. 1577.
art. 38. de l'an.
1598 art. 59.
Theodoret. l. 2.
cap. 16.
Athanas. apol. 2.
Theodoret. l. 1.
c. 28.
Hilarius in
fragmento re-
cens excuso.

11 So then these wars were the cause why many that would have gone to the Councell, could not; they were the cause why it was so often broke off, and prorogued, and that in such sort as it seemed sometimes to come to just nothing: Hence it was, that they did not proceed to the creation of new Popes in the place of those that dyed during the time of the said Councell; nor of the new Cardinals, which had otherwise been done, it being a matter which of right belonged unto them, according to the determination of the Councils of *Constance* and *Basil*, as wee shall shew in another place. Hence it was that there was such a great dispute in the consistory of *Rome*, when *Pius* the fourth renewed the Councell; some being of opinion that it was ended, & that he should call a new one: others maintaining that it was yet in being, and that he ought only to continue it: But the Pope used such phrases in his Bull, that it could not be perceived, whether it was a continuation, or a new convocation. Some might haply take me up for lying, if I had not *Onuphrius* for my warrant; *But here arose a controversie, whether it should be a continuation of the Councell of Trent, or a new convocation: The Pope found out a wholesome remedy to set all mens minds at quiet; for he used such a forme of speech in the Bull of promulgation, as might satisfie both parties, and withall the authority of the Councell be no way impeached.* The use we make of this passage is, That whereas, by their owne confession, that Councell was sometimes at so low an ebbe, that it was questioned whether it was ended or no: it would be a better way to have a new one, which might be to the content of all parts, to put an end to our differences: Considering that this was deserted and cast off, that it did not discharge the office and function of a true Councell, that it was so weake and feeble that it deserves not the name of a Councell.

Council, Con-
stant. Sess. 14.
Council Basil.
Sess. 37.

Onuphrius in
Pio 4.

12 Here we must observe that the *French Ambassadors* at the Councell 1563, had an expresse commission to urge, that this last Councell might not bee accounted a continuation of the former. And there was an expresse article against those things which were put off by them at the beginning.

The place of
the Councell
not free.

13 The Lords of *Ferriers* and *Pibrac* after their departure from the Councell, when they were retired to *Venice*, writ letters to King *Charles*, dated November 25. 1563. Wherein after they have acquainted him with the reason of their departure, they give him notice, ' That the Councell would move ' his Majestie to send new Ambassadours, which hee could not doe without ' great prejudice. That the Pope would cause them shortly to proceed to the ' last Session; wherein it must be determined, whether this Councell shall bee ' taken for a continuation of the first, or for a new one: That if it be concluded ' to be the same Councell, (as they are all inclined that way) the *French* Am- ' bassadours, who ever refused to admit of the first, should hereby receive a ' great blemish; and the proceedings of King *Henry*, who protested against it, ' should be condemned.

14 These and other letters by me quoted, which I have seene, remaine in the hands of good Catholiques, who will be ready to produce them upon occasion, with many other memorable acts concerning this subject.

CHAP. VII.

That the place where the Councell was held was not free.



It is urged moreover, that the place of the Councell was not free and safe: and that the suit being commenced against the protestants of *Germany*, the Councell should have been called within that country; according to the request exhibited by the body of the States of *Germany* assembled at *Noremberg*, whose words are these; *They cannot thinke of a more powerfull and present remedy, than that the Pope, by the consent of the Emperour, call a free Councell in some convenient place of the Empire, as soone as may be; as at Strasburgh, Mayens, Cullen, Ments, or at some other place convenient in Germany.* In reference to this, the *German* Bishops assembled in an imperiall Diet at *Amsburg* 1547, complaine to Pope *Paul* the third, for not causing that Councell to be holden in *Germany*, and the inconveniences that followed thereupon, with the little good it did. See the tenure of their letters set downe by *Sleidan*, and not contradicted by those that have written against him.

3 Whereupon the Bishops of *Germany* sent letters unto him the 14. of September, whereby they certified him of the State and danger of *Germany*, and said, it might have beene prevented, if in good time the remedy had beene applied by a generall Councell, to the disease, when it was first a breeding: for which Councell they had often importuned the Emperour, that he would procure so much as that it might bee kept within the confines of the Empire; that so the Bishops of the country, who were principally concerned in it, might be there. For considering, their jurisdiction is of such a large extent, it would be very inconvenient for them to travaile out of their country, especially at this time. Finally, by diligence of the Emperour, when there was not a living soule to be found at *Mantua*, nor *Vicenza*, the Councell was concluded upon and begun; but without the bounds of *Germany*; namely at *Trent*, which belongs rather to *Italy*. This was the reason there were so few *German*s there; nor indeed could they bee; especially in a time of war, when all the passages were stopped and guarded.

*Vid. responso-
nem principum
et aliorum Im-
perii ordinum
pontificio legato
redditam, in fa-
sciculo rerum
expetendarum
pag. 173.
Sleidan, lib. 19.
not contra-
dicted by Suri-
us and Fonta-
nus.*

3 The Protestants also have ever made the like demand, in many severall assemblies of *Germany*: namely, that there might bee a free Councell; and that it might be held in some imperiall City of *Germany*; as well for the liberty, as for the convenience. And besides, because the differences in religion were borne there.

Councells
should be holden
in a free
place.

4 I will set downe only what they say in a letter writ by them to the Emperour *Charles* the fifth, dated August the 11. 1546. Any body (say they) may easily see and perceive that this is none of the Councell, with the vaine hopes and promises whereof you have a long time fed us in many Diets: to wit, of a generall, Christian, and free Councell; and that it should be in *Germany*; as wee and our associats in religion have made remonstrance to your Majestie in the last Diet at *Worms*.

5 The King of *England* demanded likewise, that the Councell might bee in a place free and safe, out of the Popes dominions. And when hee understood that *Italy* was the place assigned, he protested against it as null, in the yeere 1537. His life lyes at stake (saith he) that dares reprove the Pope, and accuse him to his face, unlesse it bee in a lawfull Councell: nor he nor his are secured by safe conduct. And say he were, there are apparent dangers and good reason why he should not come there; for it is no new thing with the Popes to violate their faith to staine, and imbrue themselves in the blood of innocents: and howsoever others may safely go thither, for his part he could not, for evident reasons: For the Pope lyes in wait for him, and hates him mortally.

Steidan. Comment. lib. 11.

6 The King of *France* made the like instance, in the protestation which he sent to *Trent*, and was presented by Monsieur *James Amiot*, Abbat of *Bello-sane*, the first of September 1551. For after he had made rehearfall of the war, which the Pope had raised up against him; hee shewes, That he could not send the Bishops of his Realme unto the Councell, seeing they could not have free and safe access. Now this demand of the freedome and safety of the place is no new thing, but hath been put up at other times upon the like occasion. The University of *Paris* in the act of their appeal (whereof we spoke before) makes expresse mention of the safety of the place to which the appeal should be brought. The Fathers in the second *Pisan* Councell, offer Pope *Julius* the second, to submit themselves to a Councell of his calling, but not in *Rome*, as he would have it; but in some other free place, where they needed not feare: Yea, they named ten Cities to him in severall places of Christendome, that he might make choise of one; or they would give him his choice to name ten in *Italy*; so they were not under his jurisdiction nor under the *Venetians*.

Extat hec protestatio in libro de Ecclesia Gallicana statutu in schismate. Ad futurum Concilium legitime ac in loco tuto & quem libere et cum securitate nos eadem Universitas, vel a nobis & ab ea deputandi adire poterimus provocamus & appellamus. Vid. fascic. rerum expendarum pag. 36.

7 The delegates sent to the Pope at *Rome* by the same Councell, according to the commission which was given them; made proffer to the Colledge of Cardinals, of all peace, unity and obedience; alwayes provided they should agree of a common place of safety, and which stood neuter for the celebration of a generall Councell; the city of *Rome* being much suspected both by them and many more. But it is fitting we here translate word for word, the reasons which were urged by that same Councell of *Pisa* in their apology against the Pope and Cardinals, who were obstinately bent to have the Councell in the city of *Rome*.

8 God forbid we should thinke the *Lateran* a safe place to meet in, and treat of the affaires of the Church, with safety and truth. Wee much suspect there are some ambushes lurking in the *Lateran*; and therefore from henceforth, we do most resolutely and earnestly refuse it, as a place notoriously and evidently suspect; as dreadful and dangerous to our lives, especially now when we stand upon other protestations. We confesse indeed, and that confidently; that place is very fitting and most safe for projection: there are a great

This apology of the Councell of *Pisa*, was printed at Milan by *Gordus Ponticus* an. 1512.

The Councell
of Pisa's apo-
logy.

great number of men, well furnished both foot and horse : there are strong
forts, a navy not farre off : And lastly , the City it selfe, with the adjacent
people trained up in armes, and accustomed to the warres, all at the Popes de-
votion. There are Captaines which make but small reckoning of Cardinals
and Prelates, when it is the Popes pleasure : And the Cardinals being alrea-
dy possessed with this feare, are not in case to counsell what is true, but what
will please. Nay there is not a man alive, but will take his oath without scru-
ple, that the place designed at *Rome*, is full of treacheries, and very dange-
rous, both for those who called the Councell at *Pisa*, and all those that were
present there. And we know nothing in all the world so certaine, but is lesse
certaine than what wee said before. If then the comming into the City at
this time, be generally reputed and esteemed to bee with the great hazard of
the lives of the Fathers ; this refusall ought not to bee offensive. For what
man is hee (as *Clement* the fifth said) that will easily come before a judge
guarded with a strong army ? Who durst, or could bee thought to appeare
willingly before him, and put himselfe into their clutches, whose violence
he hath good reason to be afraid of ? Which is a thing to be feared of right,
and which we usually eschew, which reason enforceth us to doe, and which
nature abhorreth. As for the Popes faire words in offering us safe conduct,
and his promise to receive and intertaine us courteously, and lovingly, these
will not serve either to remove, or lessen the just feares which possesse the
minds of the Fathers. For what faith and promise can be made with more
solemnity, than that of the Conclave, confirmed by vow and oath, and that
in forme of a contract ? Yet the late creation of Cardinals, whose liberties
were not preserved, doth give sufficient testimony how it was kept. But
suppose we were in hopes that his Holynesse will keepe his promise with an
upright heart, without suffering himselfe to be transported either with hate
or choler : how can the Fathers be assured in their hearts, when they looke
backe upon things by-past, though his Holynesse should not be touched with
indignation ? Popes are men, and God saith, there are twelve houres of the
day : Who will secure us against the infinite number of persons which de-
pend upon the Pope ? against the injuries and affronts of those lewd peo-
ple, which swarme in the Court of *Rome* ? The intolerable wrongs, the
cruell insolencies, the horrid and unheard-of butchering, which some Fathers
have suffered that followed the Court, are a sufficient *item* to us, and make
us more wary. Not to goe far for examples, the Pope himselfe, when hee
was but yet of an inferiour order, hath sufficiently instructed us, how far wee
may rely upon the safe conducts of the Court ; (from which there is no ap-
peal) for he was wont to say, It is a great peece of folly to change life and
liberty, with the skin of a dead beast : that is, with a parchment of safe con-
duct. It will be hard for him to make others beleieve what himselfe was so
resolute not to beleieve, and that for so long a time. Which indeed stands
with good reason ; for even *Innocent* the fourth tels us, that no man is bound
to put himselfe into the power of his enemy with letters of safe conduct.
Hereupon the former Popes, after they had got Armies, Garisons, and Citta-
dels into *Rome*, were wont to assemble Councells in other places, rather
than there. And if there be no more liberty allowed to the Senat, than what
they now have, if the Popes doe not take another course of life and govern-
ment, than they doe, no man can ever thinke that in such kinde, of Ecclesia-
sticall liberty as this, there is any fit and convenient place for receiving the
Holy Ghost, who doth usually reside in free soules assembled in a Councell.
Seeing then that the exception against the place is proved to be lawfull by all
right and reason ; seeing the profer of safe conduct cannot in right and reason
remove the just feare, which is such as may bee incident to men of fortitude ;
would

would to God those projectors would make no more mention of the place of the *Lateran*: for by standing so peremptorily upon the difficulty and difference of place, they give no small occasion of suspicion, that they doe not so much desire that the Synod should be held at the *Lateran*, as to hinder the holding of it at *Pisa* or elsewhere.

Trent, subject to the Pope.

10 All the reasons alledged in this Apology are very pat for the Protestants. They alwayes demanded, that the Councell might be kept in *Germany*. this demand was repeated in all the Diets holden in those dayes. The Catholique Princes and States of *Germany* made the same request to Pope *Adrian* the 6. in the Diet of *Noremberg*, (as we said before) but there was no way to compass it. The Pope hath not yet forgot the Councels of *Constance* and *Basil*. He thinkes *Germany* is farall to him; but the worst is, he will not budge out of *Italy*. One while he will have it at *Mantua*, anon at *Vicenza*, then at *Trent*; afterwards at *Bonony*, lastly at *Trent*, but still in *Italy*. For it cannot be denied but *Trent* is in *Italy*, although in the description of it at the beginning of the Councell it is said to be in the confines of *Italy* and *Germany*. All antiquity puts it in *Italy*. *Ortelius* in his Theater of Geography puts it in the map of *Italy*. This City was otherwise no lesse formidable to the Protestants than *Rome* was to the *Pisan* Fathers. The Bishop was Lord of the Towne, and the Pope of the Bishop; who had taken an oath of him, and was bound unto him by a red hat which he received from him. Besides, it is a City subject to treacheries and ambushments, the places thereabouts being at the Popes devotion. The denyall of having the Councell kept in *Germany*, or any other place of free access, breeds a suspicion of fraud and false-dealing. As for safe conduct, that was offered here also; but if they of *Pisa* could not rely upon it, much lesse the Protestants; especially so long as the memory of *John Hus* and *Jerom* of *Prague* was not extinct, and the decree of the Councell of *Constance* stood in force; which saith, that proces must bee made against heretiques; notwithstanding the safe-conduct of the Emperour and other Kings: and some shift might be found to wave that also which was granted by the Councell.

11 There needed no more but that one Canon, *Bad promises must be broken*; to thunder-strike all heretiques, notwithstanding their safe conduct; and that rule which is given us by *Boniface* the eighth, *It is not necessary for a man to keepe his word in unlawfull promises*. And God knowes there was no want of such Doctors as would put such a glosse on those decrees as would best suit with the point in question. For is there any thing worse than a heretique? to communicate and converse with them, is it not a kinde of contract is it not an obligation? The Canonists advise us not to trust too farre to such safe conducts, and excuse them that take their councell, from all defaults that they can incur; acquitting them from all sentences and proces made against them, which they brand with a nullity.

*Angelus Immo-
la.
Socinus Neci-
us in Constitis
adversus Juli-
um 2. Jacoba-
rius. & alii.*

12 When the great schisme was in the time of the Emperour *Sigismund*, for the appeasing whereof the Councell of *Constance* was called, there was a great deale of ceremony about chusing the place. That very point was held so materiall, that the winning or losing of the cause was thought to depend upon it. They agreed well enough of the time (so the *Germane* Chronicles) but a great controversie there was about the place. The Popes perceived well enough that the place was all in all, and no question but he of *Rome* had beene cast, had it beene in any place that acknowledged him of *France* for the true Pope; and on the contrary, the French Pope deposed, if in a place where the *Romane* was taken for the lawfull Pope. And therefore they contended a long time about the place. Pope *John* did wisely dissemble, and not communicate his counsell save to one or two; his chiefe care was that it might not be in any place where the Emperour was the stronger party. Which notwithstanding fell out against his will, which almost

*Murinus Ger-
man. Chron. lib.
27. circa prin-
cip.*

The place now
accounted of
by Popes.

Naclerus vol.
2. generat. 48.

Naclerus vol.
2. generat. 45.
a Ut probatur
cap. ex parte D.
de appellat. 3.
q. 9. Hortatur
ut lite non con-
test. accedens.
D. de judic. l. si
locum.
b Clement. pa-
storalis de sen-
tent. & reju-
dic.

made him to despaire. The Legats being returned to the Pope, (say those Chro-
nicles, meaning John the three and twentieth) and having certified him of the
place of the Councell, which was agreed upon, he had like to have gone mad by rea-
son of the excessive griefe he conceived thereupon, and cryed out hee was undone,
and began to cast about for the altering of it. But all his counsellors lying their
heads together could never invent a pretence faire enough to bring that about.
Naclerus hath the very same in a manner, who brings in the testimony of
Aretin in this sort :

13 ' We must not omit (saith Leonard Aretin) a memorable accident which
' fell out then, whence we may learne that all things are disposed from above.
' The Pope (saith he) had secretly imparted unto me his intention and designe,
' (he was the Popes Secretary) saying unto me, All depends upon the place of
' the Councell, I will not have it in a place where the Emperour is stronger
' than I, wherefore I will give a large commission and authority to the Legats
' whom I shall send for fashion sake, which they may shew in publique; but in
' private I will restraîne their power to certaine places; and he told me the
' number of them. Persisting many dayes in this minde, the time came that he
' must dispatch the Legats. Then having caused all other to avoid the roome,
' my selfe onely excepted (saith Leonard) he communed secretly with the Le-
' gats, and exhorted them with many arguments to be diligent in performing
' the charge of their legation; representing unto them how the businesse they
' were sent about was of great importance: then coming to curry favour with
' them he commended their discretion and fidelity, saying, they knew better
' what was fitting to be done than he himselfe did. While hee was speaking
' and repeating these things, his affection did alter in a moment a plot which
' was long before intended. I had purposed (saith the Pope) to nominate some
' places, to which and no other you should condescend; but I have changed
' my minde at this very instant, and leave all to your discretion: consider with
' your selves what will be safest for me, and what I need be afraid of. Then in
' their presence hee tore the Paper wherein the names of those places were
' writ, without naming any place at all to them. The Legats being dispatched
' towards Sigismond, pitched upon the City of Constance for the place of the
' Councell, which was within the Emperours dominions. But when Pope
' John heard of it, you would not thinke how he was grieved at it; hee cursed
' himselfe and his fortunes. But there is no resisting of the will of God: God
' had ordained long before that there should be but one flock, and one shep-
' heard.

14 Amongst other nullities, the States of Germany assembled in the Diet at
Francford the yeere 1338. doe urge against the sentence and proceeding of
Pope John the 22. and his Councell, concerning the excommunication of Lewes
the fifth, the little safety in the place appointed for the Emperour to make his
appearance at. That the citation (say they in a Decree which runnes in the
Emperours name) binde the party assigned to appeare, it is requisite there bee a
time appointed him, and that the place where he is to make his appearance be safe.
But it is notoriously knowne that this same John doth beare a capitall hatred to
us, and hath with an army of souldiers pursued us, our liegemen and confederates.
Besides, the City of Avignon, the Pope himselfe, and the Land of it, have a long
time hated both us and the Romane Empire; wherefore it were senselesse for any
man to say that such a summons was Canonically: for on the contrary, it is utterly
void and invalid in law.

15 The authority of Clement the fifth may serve to prove, that those who
are summoned need not appeare but in a place of safety, in as much as his dis-
annulling of the sentence of condemnation pronounced by the Emperour Henry
the sixth against Robert King of Sicily, was mainly grounded upon this very
conli-

consideration. It is a thing evident and unquestionable, (saith he) that during the time of this proces and quarrell, even then when the sentence was given, there was alwayes a great army about the Emperour, that pursued the King and his partakers with mortall hatred, and that the City of Pisa, where the sentence was given, had an ancient grudge against the said King, as every body knows. Supposing then, that the King was lawfully cited upon those grounds by the Emperour, was he bound to come before a judge that was accompanied with a great army? one that hated and was incensed against the party summoned, as was said before? Was he bound to appeare in a populous place, of great strength, and which bore hatred towards him? who durst doe so? or by what reason should any man be bound to bide his doome in such a Consistory, to cast himselfe into his enemies bosome, to present himselfe voluntarily to die, and that for no just cause, but by an open injury? He were a foole that would thinke such a citation bound the party cited to make appearance.

Safety of the place enquired by the Canon Law.

16 All these considerations hold good against the Councell of Trent. For besides that all the Cardinalls; all the Archbishops, Bishops, Abbats, Priours, and others that bore place in it, were enemies to the Protestants, and to them that were out of favour with the Pope; the City was at enmity with them, and the Lord of it. Moreover the Popes armies were almost continually abroad in *Campania* during the time of the Councell, either against the Protestants, or against the King of France, or upon other occasions, as we shall shew anon.

17 *Nicholas* the first, speaking of the suit which was betwixt King *Lotharius* and his Queen *Thieberg*, whom he put away from him, ordaines that the cause shall bee debated in a place of safety, where they need to feare nothing. Wherefore it is fitting (saith he) to procure such a place where the force of a multitude needs not to be feared: And the glosse upon it; This is an argument that the judge is bound to provide a place of judgement for the hearing of the cause, where the parties may meet freely and safely. Which glosse is approved by the common opinion of the Canonists.

Can. sine de Conjugii. Cau. 33. q. 2. Adde can. Lotharius, caus. 3. q. 3. Archidiaconus de Turrecremata, & alii ibid. Et Reg. sub ann. 864.

18 *Innocent* the third will have it to be a just occasion of appeal, when the party is appointed by the judge, to come to a place which is not safe. As often (saith he) as you shall be summoned before any judges, if it be dangerous to appeare before them, you may lawfully become appellants.

19 *Innocent* the fourth speaking of the satisfaction which he offered to make the Emperour *Frederick*, and referred it to be determined by Kings, Princes, and Ecclesiasticall persons, whom he offered to call together in some place for that end, makes expresse mention of the safety of the place. Wee are ready (saith he) to assemble Kings, Prelates, and Princes, both spirituall and temporall in some place of safety. And the glosse upon this; A judge should appoint such a place, or else there is a just cause of appeal, although it bee said that no appeal shall be admitted.

20 *Ivo* Bishop of *Chartres* complains of the Popes Legat, because he had chosen the city of *Bloys*, there to decide the cause of the Clergy of *Chartres*; who could not repaire thither with safety by reason of the populacy of that City.

Ivo epist. 94.

21 The same Bishop having a controversie with some of his Clergy depending before the Archbishop of *Sens* his Metropolitan; intreats him to appoint a place for judgement, whither they might goe and come with safety.

Ivo epist. 205.

22 The Legat we spoke of, having appointed a Councell, consisting of French Bishops, to meet at *Sens*, for the absolution of King *Philip* the first, from the excommunication which was darted out against him by the Pope, by reason of his unlawfull marriage, hee gives him notice, that hee might have done better, to have proceeded to that absolution in another place then *Sens*, that so every one might have had meanes to speake his opinion freely.

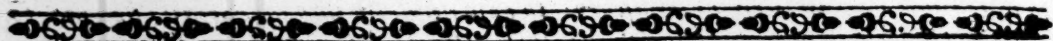
Ivo epist. 166.

The Roman
Clergy only
called to the
Councell.

Doctores in
Clement. Pasto-
ralli de senten-

tia & rejudicata. Quidrad. Conf. 43. Calderinus Conf. 5. Abbas, & Moderni in cap. veniens de accusat. Ma-
rian, Socin, in rubric. de dilat art. 15. q. 5. Gloss. in cap. cum locum. Extra. De sponsal. & matrimonio.

23 The Doctours of the Canon law doe all agree, that an exception against the safety of the place is pertinent, and ought to be admitted: that it is good both by the Civill law, and the law of nature, that a man summoned to a place where any danger threatens him, is not bound to appeare, nor to send his pro-
cureur; and that a judge is bound to assigne the parties a place of safety for the hearing of their cause, otherwise there is just cause of appeal.



CHAP. VIII.

*That all those who ought to have had a decisive or delibera-
tive voyce in the Councell, were not called.*



Complaint is made also, that all those who ought to have had a consultative or deliberative voyce in the Councell, were not called thereunto. *Paul* the third by his Bull, dated in May 1542, and *Pius* the fourth by his in November 1560, call none to that Councell to deliver their opinions, but Cardinals, Patriarchs, Archbishops, Bishops, Abbats, and Generals of Orders. They doe not mention in expresse termes either the first or the last of these, but yet they are comprehended under those words, *All others whosoever*, which are restrained to them alone. For this sense the Popes expositors put upon them, and this is the form which is received in the Church of Rome; witnesse *Bellarmino*, and those whom he urgeth. Nor was there any but those who had voices in the Chapter of the Councell. All the petty Ecclesiastiques had nothing else to doe there, but to pick their fingers, or to pen neat speeches of such matters as were there treated of. But for decrees, those lettice were not for their lips. All this is confessed by the Doctors themselves; yea, and defended too. The Popes whom I named, exhort those whom they call thither, that they should not faile to come there; yea, they straitly injoyne them by vertue of that oath which they have taken to them, and to the Holy See; which cannot be referred neither to Protestants, nor any other that have drawne back from their obedience to him, nor yet to Lay men howsoever obedient.

*Bellarmin lib.
1. de Conciliis.
Johannes de
Turrecremata
lib. 3. cap. 12.
et 15.*

*Sozomen. lib. 4.
6. 5.*

2 Hence two complaints arise; one, that the Ecclesiastiques of the Protestants side, being they could not have a deliberative voice there, had nothing to doe to goe thither. The other, that the Laiques of both religions, have ground of complaint, being excluded from this judgement. As for the first, when any controversie arose, diverse courses have been taken to compose the differences in religion: Sometimes the Emperours have appointed judges, before whom both parties came and discussed their opinions freely. *Photinus* Bishop of *Smyrna*, being accused for a heretique by the Councell there, was afterwards admitted to dispute with the Catholique Bishops, *In which dispute* (saith *Sozomen*) *certaine judges were ordained for presidents of the Councell, who from that time forwards, were accounted men of prime rank in the Palace, both for knowledge and dignity.* After many objections and answers *pro* and *con*; *Basil*, Bishop of *Ancyra*, who defended the doctrine of the Catholiques, got the

the victory; and *Photinus* was condemned and sent into banishment. At the generall Councell of *Chalcedon*, which consisted of six hundred Bishops, there were diverse officers of the Emperours *Valentinian* and *Marcian*; and a good number of Senators that came to preside there; yea, and to judge of all differences and controversies, even such as concerned faith and religion: who behaved themselves so, that in some points they swayed that great company of Bishops by their advice. As we have observed more particularly in the title of the presidency in Councels. *Honorius* the Emperour, to lay the quarrels that were in his time between the Catholiques & the Donatists in *Africk*, called them all together at *Carthage*, and deputed *Marcellinus*, one of his officers to bee judge; who after hee had heard all along the reasons on both sides, pronounced the sentence of condemnation against the Donatists. Wherein he saith amongst other things;

3 To the end that apparent error may undergoe the yoke of revealed truth, by the authority of this present Edict I advise all men of what condition soever, landlords, stewards, and farmers, as well which hold of the Crowne, as of private possessions, with the Ancients in all places, that, not forgetting the lawes, their own dignity, honour and safeguard, they doe their endeavour to hinder all Conventions of the Donatists, in all townes whatsoever; who shall be bound to surrender up to the Catholiques those Churches which I allowed them of courtesie untill the day of sentence, without commission from the Emperour.

4 *Possidius*, that writ the life of *St. Austin*, reports as much in plain terms. This happened mainly (saith he) by occasion of the conference which was at *Carthage* betweene all the Catholique Bishops and the Donatists, by the command of the Emperour *Honorius*, who sent *Marcellinus* the Tribune into *Africk* to be judge in that collation. In which controversie the Donatists, being thoroughly confuted and convinced of error by the Catholiques, were condemned by the sentence of the judge. He addes moreover, that they appealed from that sentence to the Emperour, and that they were afterward condemned by him, and declared heretiques.

5 Pope *Miltiades* also with some other Bishops, had passed sentence in that cause, but the Donatists being not well content with his judgement, the Emperour remitted them afterwards to the Bishop of *Arles*, as *St. Austin* relates. That which Cardinall *Jacobatus*, a stickler for the Popes authority, saith, is very remarkable, that lay-men were sometimes admitted to Councels, to bee judges betwixt those that canvassed some deepe point. Hereupon (saith he) in a Synod holden in a Councell before *Constantine* and *Helena*, where it was disputed, whether the Jewish law or the Christian should bee preferred, *Craton* the Philosopher who would not possesse any worldly goods, and *Zenosimus* who never received present from any one in the time of his Consulship, were appointed for judges. With which doth accord (to speake it by the way, but not much from the purpose) that saying of *Gerson* the learned Chancelour of *Paris*. There was a time, when without any rashnesse or prejudice to faith, the controversies of faith were referred to the judgement of Pagan Philosophers, who presupposing the faith of Christ to be such as it was confessed to be, however they did not beleve it, yet they knew what would follow by evident and necessary consequence from it, and what was repugnant to it. Thus it was in the Councell of *Nice*, as is left unto us upon record. So likewise *Eutropius* a Pagan Philosopher was chosen judge betwixt *Origen* and the *Marcionites*, who were condemned by him.

6 When any upstart opinion or heresie was broached, the manner was to proceed against them, by assembling Councels against the authors of them; whom they condemned, together with their heresies; which they were forced either to abjure, or to suffer banishments and other punishments. Hereof we have examples in store, so well known that we need not set them down.

Lay men admitted to Councels in the Primitive times.

Vid. Acta Concilii Chalced. tom. 1. Conciliorum.

Vid. Acta Collationis Carthaginensis habite.

Vid. Acta ejusdem Collationis circa finem.

Possidius in vita D. August.

August. ep. 162.

Jacobatus lib. 2. de Concilio art. 6.

Origenis dialogo contra Marcionitas.

The free disputes in former Councils.

V. Theodoret.
l. 2. c. 8.
Et Socratem
l. 2. c. 29.

Socrates lib. 1.
cap. 16.

Sozomen. l. 3.
cap. 10.

Vide Acta Concilii generalis
Ferrariensis
five Florentini.
tom. 3. Concil.
Session. 3. Et in
Concilio Laterano.
Vid. Concordata inter Francisc. 1. & Leonem 10.
Cap ad Apostolicam. De sententia et re iudicata in 6.

7 Sometime they had free Councils, unto which it was lawfull for the Bishops of both sides to resort, dispute, and deliver their opinions. We have some examples hereof, which would suit very well with these times, and which we ought to imitate. The two Emperours, *Constans* and *Constantius*, the one a Catholique, the other an *Arrian*; the one of the East, the other of the West, to decide the controversies in religion, agreed together to call a free and generall Council at *Sardis*; whither all the Bishops of both parties might have meanes to repaire with all safety. Which was done accordingly. Then was there a generall Council appointed (saith *Socrates*) and ordained that all should repaire to *Sardis*, a City of *Illyrium*; which was done by the joynt consent and agreement of the Emperours; the one having required so much by his letters, and the other of the East having willingly embraced the motion. By the consent of both Emperours (saith *Sozomen*) it was ordained that the Bishops of either part should meet at *Sardis*, a City of *Illyrium* upon the day appointed.

8 The Council of *Ariminum*, consisting of above foure hundred Bishops, almost all of the West, and that of *Seleucia* of above an hundred and six Eastern, both holden about the same time, were of the same nature with this. For all the Bishops, both Catholique and *Arrian*, were without distinction admitted thither, both to dispute and to determine. The Bishops in those daies were not sworne to the Pope; nor did he take upon him to call them, but the Emperours, who summoned such as they thought good. This manner of calling Councils with all freedome, is then mainly required when the number of beleivers on both sides is great, when the complaints are formall, and when there are some ancient opinions defended by whole Provinces and Nations. When the case stands thus, it is no proceeding by censures and condemnations, the one side against the other; when all comes to all, there is nothing got by that. But then they must take a faire way; come to conferences, treaties of agreement and arbitration. This course was taken with the *Greek* Church in the time of the Council of *Ferrara*. The *Greek* Bishops were seated amongst the *Latines*; they conferred together; they disputed and gave up their opinions without any advantage the one over the other, either for judgement or number; and the issue was so happy, that in the end they came to an accord. The Popes for a long time branded all the *French* for Heretiques, by reason of that poore Pragmatique Sanction, which hath beene as much vexed by the Popes since, as ever was *Psyche* in *Apuleius* by offended *Venus*. Yet in the upshot they are come to those termes of accord, and articles of agreement under which we live at this instant.

9 *Innocent* the fourth after he had excommunicated the Emperour *Fredericke*, he and all his Council make this profer to him, (in case the Emperour did complaine of injustice) to referre the matter to the Kings, Prelates, & Princes spirituall and temporall, assembled about it in a place of safety. Why is not the like put in practice now adayes towards those which complaine of this Council, and are ready to defend their cause, and justifie their right?

10 This calme way hath beene sometimes attempted in *Germany*, not altogether without successe. It hath beene also practised in *France*, when the conference was at *Poissy*; yea and that with such successe, that the grand controversie touching the reall presence in the Eucharist, so much canvassed amongst us now adayes, was there composed by the twelve deputies, in spite of all the opposition made by those that envy the quiet of *France*. And what great matters were it to try that way yet once againe by generall or particular conferences? We must of necessity be driven to one of the two meanes formerly proposed; to wit, either that Christian Princes appoint certaine Judges, some Clergy men, some Lay men, an equall number of both religions; or that there bee a friendly meeting about it, where they may continue victorious right or wrong,

(as most doe now adaies) but with a holy desire to live from thenceforth in peace, or stop the veines that have shed so much blood. For to have recourse to the rigour of the formalities and caltrops of the Councell of *Trent*, is but for men to cosen themselves: the event hath proved the designe to bee naught. This Councell in stead of appeasing the troubles did excite them; and invenomed those mindes which were exulcerated before. In stead of setting the repose and unity of the Church, it raised warres in *Germany*, the *Low Countries*, and in our *France*, not onely during the time of the sitting, but afterwards: and this is the reason why King *Charles* did earnestly sollicite the Fathers there by his Ambassadors to the embracing of peace. Marke what the Cardinall of *Lorraine* sayes to them about it, in his learned Oration.

Lay men totally excluded from this Councell.

11 *The most Christian King*, although hee be thoroughly perswaded of all these things, and expect nothing from us which may make against them: yet there are two things whereof he puts you in minde, out of the good will he beares towards the Synod, and the great vexation he endures by reason of these differences in Religion. First, that as much as we can we avoid all new controversies, that wee lay aside all uncouth and impertinent questions, that we band all our forces as much as we may, to effect that Princes and Provinces would give over their warres. Wee must be farre from any desire of stirring up warres, that so they who have departed from us, and are cut off from the Church of God, may not thinke that this assembly was rather to raise up Princes in armes, and to enter leagues and confederacies, though for a holy warre, than to procure a generall reconciliation of the mindes of all men. The other maine point of my ambassage, is, that which from the beginning was common to my master the most Christian King, with the most Illustrious the Emperour, and all other Kings and Princes who have their right honourable Ambassadors here present, is that you would in good earnest take order for the reformation of manners, and of the Ecclesiasticall discipline.

12 This demaund so affectionate, was never made but upon some ground. So then, there is good reason why this Councell should be suspected; and why the form which was observed in the judgement and decision of matters should be excepted against. For what hath beene said touching the Pope, doth equally concerne the Bishops, who were summoned to a reformation as well as he. That passage which we have now cited, is a sufficient prooffe thereof, so that we need not produce any more. Consider the parties, the demands are mutuall, the actions double; the Pope complaines that the yoke of his obedience is cast off, and impeacheth them of heresie that did it; so doe the Bishops. The Protestants accuse him of tyranny, usurpation, and error; them of many vices and disorders: and both together of false doctrine: Who shall be judge herein? Surely neither the accusers, nor they that are accused; and the more they busie themselves to have the cognizance of it, the more suspected and refusable they make themselves.

13 So then recourse must be had to that friendly way which we mentioned before; where if there be any proposall of using the extremity of justice, it is necessarily requisite the Laymen have a hand in it; else what for passion, what for fury, it is impossible to see any good end of it. Hence it is that they complain of the Pope for excluding them out of the Councell. It is a thing which he could not doe of right, and that chiefly for two reasons. One, because that when it was first spoken of in the Diet at *Nonenberg*, all the States of *Germany* desired of Pope *Adrian* the sixth, that admittance might be granted as well to Lay men as Clergy men, and that not onely as witnesses and spectators, but to be Judges there. And that it may be lawfull (say they) for every one as well of the Laity as of the Clergy, that assist in the Councell, to speake freely, not withstanding all oathes and obligations whatsoever: and to provide for the glory of God, the salvation of soules, and the safety of the Christian Commonwealth, without

any

Vid. Fasciculū rerum experientiarum

Lay men may
be admitted in
Councils.

Act. 6. 2.

Act. 15. 23.

Bellarmin. l. 1.
de Conciliis c.
16.

V. Acta Conci-
lii Nicani. &
Ruffin. l. 1.

Act. 15. 32.

Cap. 32. Tom. 1.
Act. Concil. E-
phesi. Eusebi-
us de vita
Constantini lib.
4. c. 42. Act.
Concil. Ephes.
tom. 1. cap. 12.

V. Acta Conc.
Nicani cap. 8.

Theodore. 119.
1. 6. p. 10.

any hindrance. The next reason, because from all antiquity Lay men have had their place in Councils, not only to deliberate, but to determine also. This is evident from the testimony of holy Scripture. St. Luke saith, The multitude of the Disciples were called together to make an election into the ministry. It hath no colour to say, that among all those Disciples there were no Lay men. In the Councell which was called about Circumcision, mention is made not onely of the Apostles, but of the Elders of the Church; and of the brethren.

14 Bellarmine grants this to be true, (for hee cannot deny it;) but he saith withall, that some were there to judge, as the Bishops; some to consult, as the Priests; and some to consent, as the rest of the multitude. But if he were sworne to tell us who taught him this, he would be mightily puzzled to finde his authour, unlesse it be haply some smattering divine of these latter dayes. But such authorities are of no price: and if it were lawfull to rove in this sort, in the exposition of holy Scriptures, and to apply our owne idle fancies unto them, there would be no certainty in them. He saith, That the forme observed in other Councils holden after the Apostles times, may make us beleeve that it is so. But what Councils are there which heurgeth us with, seeing we finde nothing of any forme that was observed till Constantines time? That of Nice, which was holden under that Emperour, makes wholly for us; for there Lay men were admitted, and did dispute and debate controversies. I confesse it doth not appeare whether they gave voices or no. The Apostle in another place useth this forme of speech; *It pleased the Apostles and Elders with the whole Church*; which is the very Sacramentall word that was afterwards retained in giving of voices in Councils, as is plaine from their acts: and even till this houre, all the speech which our Fathers nowadayes make at the delivering of their opinion, is no more but pronouncing this word *placet*, with a good grace, and a low nod.

15 Those examples which we before alledged, concerning the deputation of judges, doe plainly prove that Lay men may judge of Ecclesiasticall matters; yea, and that they have assisted at Councils in the nature of judges. I confesse, that sometimes their commission was limited, and that they were sent only to be auditors, to see that there were no disorder, and to looke to the carriage of all things: To cause the Fathers to deliberate upon such points as were proposed, and to keep every man in order. So Dionysius sometimes Consult, at the Councell of Trent; and Candidianus at that of Ephesus. But that which we said must be likewise granted, it was a matter which depended upon the Emperours, to allow what power they thought good, unto those that supplied their place of presidency; as also it belonged to them to call Councils, and to admit or exclude whom they pleased.

16 And as for themselves, they behaved themselves herein severall wayes: For sometimes they contented themselves with a honorary presidency, without intermedling so farre as to dispute, consult, or decide. Others there were who executed the office and function of judges. In this manner Constantine the Great assisted at the Councell of Nice. Which may be proved from hence, that certaine Bishops putting up bills of complaints, and mutually accusing one another, they preferred their libels and petitions to him, to have justice of him: which though hee indeed refused to doe, yet another man hath done: What he said or did in this case, was out of modesty; as also diverse other things, which nevertheless were otherwise wrested, to the prejudice of them who were too full of their courtesies. Hee desired to be amongst them in the rank of a Bishop; for mark how he writes, after the breaking up of the Councell, to some Bishops that were absent, *I assisted there as one of you, and I will never deny (for it is a thing I much joy in) that I joyned my selfe with you in that ministry.*

ministry. Therefore he was one of the judges, else he should have beene lesse than the Bishops. It was he also that passed the last decretory sentence, from whence there lay no appeal, upon the Donatists, after they had been formerly condemned by the Pope and the Councell of Arles. Another Constantine was president of the sixth generall Councell at Constantinople, with a good number of his officers assisting; and the acts of the Councell make it plaine, that hee was not a meere honorary president, but that the whole action was guided by him; that he pronounced the sentence and gave judgement: and in summe, did all that belongs to an Ecclesiasticall president to doe.

The Trent Fa-
ther restrained
of their liberty.

Vid. Acta Con-
cilii Constanti-
nop. 6. tom. 2.
Conc.

17 Charles the Great, did the like in the Councell of Francford; where hee discoursed of points of faith, and made them deliver their opinions upon such as himselfe proposed. The Canons and Decrees runne also in his name, *The Emperour (saith hee) hath ordained, with the consent of the Synod, &c.*

Vid. Acta Con-
cil. Francford.
in libello sacro.
syllabo. tom. 3.
Concil. pag. 535
Hæc decreta ex-
tant MS. in vet.
Bibliotheca.

18 The name of Charles the Great, puts us in minde of inserting some of our French Synods in this place, which we finde oftentimes to have consisted both of Lay men and Clergy men, joyntly to determine of matters, aswell Ecclesiasticall as Civill.

19 In the yeere 742, in the reigne of Childeric, Carloman Duke and Prince of the French, called a Synod in France, where he had some Bishops, some Priests, and some Lay Princes of the Realme; by whose advise and counsell hee made certaine Ecclesiasticall constitutions; *By the advise of the Churchmen, and the Princes of this Realme, we have ordained, decreed, &c.* See how hee speaks in the Decrees of that Councell.

V. Synodum
Francicam tom.
2. Con. p. 456.

20 The yeer 744, under the same Childeric, Pepin a French Duke and Prince called another Synod at Soissons, consisting of Churchmen, and some chiefe Lay men of the Realme; with whom hee enacted some Ecclesiasticall lawes. *Wherfore with the consent of the Bishops, Priests, and servants of God, and the advise of the chiefe of the Kingdome, we have decreed to renew the Synod every yeer, &c.* Again; *Wee have constituted and ordained by the Councell of the Clergy men, and the chiefe men of the Realme aforesaid.* See you in what style the decrees of that Councell were conceived.

V. Synod. Sues-
son. tom. 3. Con-
cil. p. 438.

21 The yeer 787, the Emperour Charles the Great, being departed from Rome to come into France. As soone as he was arrived at Worms, (saith Rhegno) he called a Synod, and declared the reasons of his journey to the Clergy and Princes of his Realme.

Rhegno sub an.
787.

22 The Councell of Meaux, under Charles the second, 845, mentions some former Councells, that consisted of Clergy and Lay men. *Another was holden (saith it) at his returne, and confirmed under the proper seal of the Prince, and all the rest both Clergy men and Lay.* And in another place, *They ordained first of all to settle something that had beene formerly decreed by the same Prince, together with the Lords spirituall and temporall.*

Concil. Melden-
se. tom. 3. Conc.
p. 866.

23 The Councell holden at Pistis upon Seyn, the yeere 863 was of the same nature with these, as wee may perceive by the beginning of it. *In the name of the Holy and indivisible Trinity, Charles by the grace of God, King of France, together with the Bishops, Abbats, Earles, and the rest of the faithfull regenerate in Christ, gathered together from diverse Provinces, at a place called Pistis upon the river Seyn, in the yeere of our Lord 863, the 23 yeer of the reign of our Sovereigne Lord King Charles, indiction the tenth. The Kings and Bishops assembled before us, being guided by the feare and love of God, have made diverse constitutions and decrees, with the Counsell and consent of the rest of the faithfull people of God. And in the second chapter; For the putting of which things more particularly in execution, wee have thought fit here to renew some amongst many, of the constitutions and decrees of our predecessors, and the ancient Councells.* It follows afterwards chapter the third, *Wee*

Synodus pistis
in Princ. tom. 3.
Conc. p. 900.

Lay men have
assisted at
Councell in
France.

Vide Concil.
Triburiense in
princ. & in fine
tom. 4. Concil.
pa. 26.

Rigordus de
gestis Philippi
Augusti sub
anno 1179.

M. Jean du Til-
let greffier en
ses memoires.
V. Capitulare
Caroli Magni
lib. 2. ca. 24. &
25.

Rigordus de
gestis Philippi
Augusti sub
anno 1200.

Idem Rigordus,
a Jean le Maire
en la 2. partie
de la division
des schismes.
b Marinus Polo-
nus, five additio
ad eum. Postea
idem Rex, con-
vocatis Prela-
tis, Baronibus
ac Comit. reg-
ni Parisiis con-
cilium celebra-
vit: petens
consilium et
auxilium con-
tra Papam pra-
dictum.

c Jean Bouchet
en la 4. partie
des annales
d'Aquitaine.
platina in Bo-
nifacio 8.

V. Pragmat.
Sanctionem in
principio et in
fine.

Vide hunc ap-
pellationis li-
bellum in fasci-
culo rerum ex-
petendarum.

Jean de Maire
en la 2. partie
de la difference
des schism.

have constituted and ordained by common advise, &c.

24 The Councell of Tribur was neerly of the same kinde; for there were divers Lay-men there with King Arnulph, who was President in it. He came (saith the Preface to it) into the royall City of Tribur in France, with the Bishops underwritten, the Abbats, and all the Peeres of his Realme, and there flocked thither both Clergy and Lay-men, in great troupes. And at the end, This holy subscription was confirmed and fairly approved by the reverend profession, and worthis answers of the Priests, Deacons, and Lay Nobility. This Councell contains eight and fifty Chapters concerning manners and Ecclesiasticall discipline.

25 Philip Augustus intending to declare his sonne Philip his successeur in the Realme, called a generall Councell at Paris, of all the Archbishops, Bishops, Abbats, together with the Princes and Lords of his Kingdome, that they might herein pitch upon a resolution according to his desire. And it is observable, that in these Councils they treated of all things both spirituall and temporall. Whence that appeares to be true which a learned Frenchman hath written long agoe, That anciently the affaires of France were managed by the Clergy and Lay men joyntly. Which is yet practised by the Generall and Provinciaall States, as also in the Courts of Parliament consisting of Counsellors both Ecclesiasticall and Civill. There was a Councell holden at Soissons in the same Kings reigne by the Legats of Pope Innocent the third. In this Councell (saith an ancient Historian) King Philip was assistant, with the Archbishops, Bishops, and chiefe Lords of the Realme, where the point of the divorce or confirmation of the Kings marriage with Iugerberga was discussed.

26 The Patriarch of Jerusalem being arrived in France in 1184. with the Priour of the Hospitall of Outremer, and the Grand Master of the Templars, to demand succour of King Philip Augustus against the Saracens, He sent out his Mandamus to call a Generall Councell of all the Archbishops, Bishops, and Princes of his Realme (saith the same Historian) which was holden in the City of Paris.

27 The Councell of Vezelay which was called by Lewes the Tong, son to Lewes the Gros, Pope Eugenius the third being then in France, was of the same composition. Which thing being certified to Lewes the Tong, son to Lewes the Gros, (saith John le Maire) he was much grieved thereat; and for remedie thereof he caused a Councell to be assembled at Vezelay in Burgundy, consisting of all the Prelates and Princes of France, and ordained that S. Bernard Abbat of Clervaux, should represent unto them *vivâ voce*, all the mischief that was befallne in the Holy Land.

28 The like was done in the Councell of Paris, which Philip the Faire called against Boniface the eighth. After this the same King (saith a Chronicler) having called together the Prelates, Barons, and Lords of the Realm, held a Councell at Paris, where he demanded aid & advice against the said Pope. And M. John Bouchet in his Annales of Aquitaine, And immediately after hee caused a Councell of Prelates and Barons to be assembled at Paris, in which Councell King Philip was appellant.

29 The Pragmaticque Sanction of King Charles the seventh, was made in a Synod assembled at Bourges, consisting of Archbishops, Bishops, Chapters, Abbats, Deanes, Provosts, and other Ecclesiasticall persons, together with Doctors of Law both divine and humane, and other learned men of the Realme, and also of the chiefe Lords of France, and others of the Kings Councell, about the receiving of the Councils of Constance and Basil. I say Synod, for so it is called in the act of Appeal of the University of Paris. A while after King Lewes the eleventh assembled a Councell of the Gallicane Church, and all the Universities in the City of Orleans, as well to understand the purport of the Pragmaticque Sanction, as to give direction for the annates of benefices, saith the Author before alledged.

ledged. Before we leave *France*, wee will set downe what an *English* Historian saith of the Councell of *Rhemes* holden by Pope *Eugenius* the third, 1146. About that time (saith he) *Eugenius* Pope of Rome coming into France, out of the affection hee bore to Ecclesiasticall discipline, set up a generall Councell at *Rhemes*: where he sitting with a great company of Bishops and Nobles, there was a pestilent fellow brought before him, who being possesst with a devill, had seduced a great many by his tricks and jugglings.

Lay men admitted to Councell in England and Spaine.

Neubrigenfis 1.1.6.19.

30 *Spaine* can furnish us also with such like examples; and assure us that, when it pleased their Kings, even Lay men were admitted into their Councells, to have a deliberative voice there, and to judge of matters.

31 This may be collected from the sixth Councell of *Toledo*, holden under King *Chintillaud*, and by his authority, the yeere 654. where in the third chapter we reade thus: *Wherefore we decree and denounce with heart and mouth this sentence pleasing to God, & conformable to our Kings, and do furthermore ordain with the consent and advice of the Grands and honourable persons of his Kingdome, &c.* To the same effect we finde the eighth Councell of *Toledo*, holden under King *Recesswinth*, and by his command, subscribed with the signes of fiftene of his Officers. King *Eringus* caused divers of his Lords and officers of the Court to assist at the twelfth Councell of *Toledo*, holden in the yeere 581, and ordained them for Judges, together with the Bishops, to consult of such things as should bee handled there: to all whom hee made this exhortation at the opening of the Councell. 'I doe admonish and conjure you in 'commune, both you holy fathers, & you right honourable of my royall Court, 'whom we have chosen to assist in this holy Councell, by the name of God, 'and as you will answer at the dreadfull day of judgement, that without all favour or acceptance of persons, without any froward wrangling, or desire of 'perverting the truth, you treat of such matters as shall be proposed unto you 'with a sound examination, and that you expresse them with a more sound judgement. His subscription to the Acts of that Councell have these words. 'Great good will accrue to our Realme and people, if these decrees of the Acts 'of the Synod, as they were made by our procurement, so they bee confirmed 'by the oracle of our lasting law. To the end that what the reverend Fathers 'and Lords have ordained by virtue of our command, may be defended by our Edict. All his Courtiers and Officers are subsigned to the Acts of that Councell.

Concil. Tolet. 6. Tom. 3. Concil. pag. 83.

Concil. Tolet. 8. Tom. 3. Concil. P. 134.

Concil. Tolet. 12. ver/us princip. Tom. 3. Concil. pag. 374.

32 The same forme was observed in *England*: for in the yeere 905. King *Edward*, and *Plegmond Archbishop* of *Canterbury*, assembled a great Councell of Bishops, Abbats, and other faithfull people in the southerne parts of *England*, saith *Matthew Westminster*.

Math. Westminster lib. 1. sub an. 905.

33 In the yeere 1150. King *Stephen* having done what hee would at *Yorke*, and the adjoining shires, returned towards the southerne parts about the feast of *Saint Michael the Archangell*, to keepe a Councell at *London*, together with the Bishops and Nobles of *England*, both for the affaires of the Kingdome, and of the Church of *Yorke*, which was then vacant.

Neubrigenf. lib. 1. cap. ult.

34 The yeere 1170. at the request of the King of *England*, two Cardinals, *Albert* and *Theodinus*, were sent into France from the See Apostolique, who having called a great assembly of Ecclesiasticall persons and Noblemen within the territories of the King of *England*, they solemnly admitted him to purge himselfe of the murder of *Thomas Archbishop* of *Canterbury*.

Neubrigenf. lib. 2. cap. 29.

35 In the yeere 1190. the Bishop of *Ely*, Chancelour of *England*, and Lieutenant generall of the Realme, in the absence of King *Richard* the second, who was then at the warre, in the Holy Land, called the Bishops and Lords of the Kingdome together, 'And presenting them upon the suddaine with the instrument of his Legation, hee openly declared himselfe with a great deale of

Idem Neubrigenf. 1.1. cap. 14.

Some Lay men
have and may
bee admitted
to Councils.

Luitprandus re-
rum per Euro-
pam gestarum
lib. 6. cap. 6. 10.
11.

Martinus polo-
nus in Henr. 3.
sub anno 1058.

Vetus author
qui scripsit de
investitura a-
pud Theodori-
cum à Nibem
in tract. de pri-
vileg. & juri-
bus Imperat.
pag. 785.

Idem author.

Nicol. Cusanus
lib. 2. de concor-
dantiis pap. 16.

Nicolaus in
epist. ad Mi-
chaelum Imper.

‘pompe and insolency to be Legat of the See Apostolique.

36 Come we backe to the Emperours; there we have the example of *Otho* the first, who made up the Councell which he held at *Rome* for the condemna- tion of Pope *John*, of Ecclesiastiques and Lay men. Of which ranke these are named by *Luitprandus*. Of the Nobles, *Stephanus filius*, *Iohannes superista*, *De- metrius Meliosi*, *Crescentius Caballi marmorei*, *Johannes Puisina*, *Stephanus de Musa*, *Theodorus de Rufina*, *Johannes de Primicerio*, *Leo de Camurzuli*, *Ricar- dus*, *Petrus de Canaperia*, *Benedictus*, & *Bulgaminus* his sonne: Of the commu- nalty, *Peter Imperiola*, with all the Roman army. And afterwards by their una- nimous advice, the Emperour pronounced the sentence of condemnation a- gainst *John*, and created *Leo* in his stead by the same advice.

37 We have also the example of *Henry* the third, who (saith *Polanus*) ha- ving called a Councell at *Worms*, consisting of foure and twenty Bishops, and ma- ny of the Nobility, he there commanded the decrees of Pope *Gregory* to bee dis- annulled.

38 We may further alledge the example of Popes. For *Adrian* did sum- mon many Lay men to the *Lateran* Councell holden by him and *Charles* the great, what time he caused him to bee proclaimed Emperour. There was a holy Synod called (saith a good Author) by Pope *Adrian* of happy memory, at the Palace of *Lateran*, in the Church of *St. Saviour*, which was most so- lemnly kept by fifty three Ecclesiasticall persons, Bishops or Abbats, together with Judges, Magistrates, and Doctors of Law, from all parts, and also persons of all states and conditions of that City, and all the Clergy of the holy Church of *Rome*. Who made enquiry concerning the customes, lawes, and manners of that Church and Empire: consulting also by what meanes heresies and se- ditions might be rooted out of the Apostolique See; and treating of the dig- nity of the Senate and Empire of *Rome*; seeing that by reason of these things a foule error was spread over the whole world.

39 In imitation of him Pope *Leo* did the like in another Councell at the *La- teran*, under the Emperour *Otho* the first. For as much as your humility (saith he) doth humbly desire our Apostleship that dispatching the holy Synod assem- bled by your advice at the Patriarchall of the *Lateran*, in the Church of *St. Savi- our*, and consisting besides of Judges and Doctors of law, wee would declare how we may live in peace and quiet.

40 I am not ignorant that many examples may bee urged to the contrary; and that in many Councils there were no Lay-men at all, at least for ought we know. I grant it; but I would have it acknowledged withall that they might have beene there, and that it belongs to Princes to admit Lay-men when they thinke good; as *Marsilius* of *Padua* holds, and we shall prove hereafter. Nei- ther will I maintaine that it is necessary they should alwayes be admitted, but onely upon great occasions, about some weighty matters, and in case of urgent necessity. When we speake of Lay-men, we meane onely the learned, not the ignorant; for as for these, whether Lay or Clergy, they are good for nothing but to make up the tale, and therefore have nothing to doe to goe there; this is the opinion of *Cardinall Cusanus*. There (saith he) where the sentence of de- finition goes by plurality of voices, and not by consent and unanimity, it is good reason that discretion, wisdom, and authority should be considered, that the judge- ment of fooles, who are ever the greater number, may not overbeare the opinions of the wiser sort. So then, we maintaine that the learned ought to bee admit- ted, by a reason which is backed with authority; and that is, because what concernes faith is a common case to Lay-men as well as Clergy, and therefore when there is any controversie about it, every man ought to deliver his opini- on. Pope *Nicholas* hath said as much in down-right termes. Faith (saith he) is a- tholique and commune to all, it belongs as well to Lay-men as Priests. Yea to all Christi-

Christians. Hee speaks expressly of Lay-mens assisting at Councils, whom he would have admitted when controversies of faith are handled.

For what end
Lay men may
be admitted.

41 Let us apply this to our Councell of *Trent*. There were deepe points of faith handled in many Articles of it, therefore the lay-men should have been called, and admitted, and have delivered their opinions.

42 *Bellarmino* shifts it off after his way, when hee limits the admittance of Lay-men to Councils (spoken of by Pope *Nicholas*) to these ends, onely that they may see and heare what passeth, but not judge. This glosse corrupts the text, which speaks without distinction: besides the cause being the same both in respect of Clergy-men and Lay, the effect should likewise be the same.

*Bellarmino lib. 1.
de Concil. ca. 18.*

43 The second reason is the abuses which have been committed by these many ages, in the disposall of Bishopricks and benefices, whence the number of the learned Clergy hath beene more impaired, than it were to bee wished it had, and is so at this day. Marke what *Marsilius* of *Padua* said of it above three hundred yeeres agoe; *Nowadays* (saith hee) *by reason of the corruption which is crept into the regiment of the Church, the greater part of Priests and Bishops are but meanly skilled in holy Scripture: and (if I may lawfully say so) this insufficiency comes by reason that some ambitious and covetous persons, and Lawyers, will needs purchase the temporall meanes of Church livings; and doe so, either by their services, entreaties, money or temporall power. And God is my witnesse, and the number of the faithfull, that I remember, and have seene many Priests, Abbats, and Ecclesiasticall Prelats, so poorely learned that they were not able so much as to speake true Latine.* Hence it follows, that Lay men should be admitted into Councils, considering withall that it was anciently accustomed. *At the most noted Councils* (saith he) *the Emperours and Emperresses assisted with their officers, for the resolving of Scripture doubts, as appears by Isidores Code: although there was no such necessity of calling in Lay men in those dayes, as there is now, by reason of the great number of Priests and Bishops which are ignorant of Gods Law.*

*Marsilius de
Padua in de-
fens. pac. part.
2. cap. 20.*

44 I doe not urge all these passages to offend the Ecclesiasticall order, nor many learned Prelats now alive, whom I much reverence for their learning and worth; but only as suiting with the subject I have in hand. I am certain they will in heart confesse what I say to be true, That at this present there are some Ecclesiastiques which haue voices in Councils, that are incapable of that priviledge: And on the other side, there have beene, and yet are, some Lay men of all sorts, well skilled in Divinity, however they make no profession of it. Being then in the danger we are, the fire being kindled through all parts of Chriltendome, by reason of religion; the *Turks* pressing so hard upon us, that if God be not mercifull to us, our slavery is not farre off: Is it not reason to conferre about these differences, with all sorts of people, to the end that some remedy may be found out for them? There was a poore ignorant that puzzled a great Philosopher at the Councell of *Nice*; possible the like may befall us. *The opinion of one godly man ought to be preferred before the Popes, if it be grounded upon better authorities of the Old and New Testament, saith the Panormitan Abbat. Every learned man may and ought to withstand a whole Councell, if he perceiue it erres of malice or ignorance, saith Mr. John Gerson.* But where, and how, I pray you, if not in a Councell? Or, to speake more properly, where can they doe it more fitly than in such an assembly? and how should they doe it there if they be not admitted?

*Vide Acta Con-
cilii Niceni.*

*Panormis. in
cap. significasti
de Elect.*

45 It will be replied, that they may be allowed to come there, but onely to consult: and so they will expound most places out of Councils and ancient authors. For example, that which *Socrates* saith of the Councell of *Nice*; There were present (saith he) many very learned Lay men, and well skilled in disputations: that which was ordained at the Councell of

*a Socrate lib. 1.
Eccles. hist. ca. 8
b Concil. Tolos.
4. tom. 3. concil.
Toledo, pag. 65.*

Lay men admitted at Constance and Pisa.

c Concil. gener. 6
d Const. et Conc.
generale 7. Ni.
cenuntom. 3.
Concil. pag. 234
et 452.

e Guilielm. Durand. in trans. de Concil.

f Intrat. de potest. Papa lib. 3. c. 12.

Et in Conc. generalia dist. 13.

9. 4.

g Cardinalis Jacobatus lib. 2. de Concil.

Art. 6.

h Marfilus part. 2. cap. 20. in def. pac.

* Onuphrius in Pio 4.

Bellarmino lib. 1. de concil. ca. 15

Vide chronicum Pauli Langii anno 1417.
Et Pietro Mes-
sa en la vita de
Sigismondo.

Apologia concilii 2. Pisani
Impressa Mediolani per Gotar.
dum Ponticum
anno 1512.
Vide Acta concilii Pisani 2.

concerning the assistance of Lay men at Councils : that which we find recorded of the sixth generall Council at *Constantinople*, and of the seventh generall, which was the second *Nicene* Council, at both which, in all of their Sessions, diverse Senators and officers of the Emperour did assist : that which *Durand* Bishop of *Mande* saith in his treatise of Councils : that which the Abbat of *Panormo*, in his allegations for the Council of *Basil*: *Cardinal Turcremata*, and *Cardinal Jacobatus*, who admittes them in diverse cases, and amongst others in this very case whereof we speake. Yet for all that, I cannot see what they can answer to *Marfilus* of *Padua*, who allowes Lay men to be judges in Councils ; for he would have all countries in the world, and famous commonwealths, following the ordination of their humane law-giver, to elect out of faithfull men, first of Priests, next of others, provided they bee fit men of an honest life and well versed in Gods Lawes. And as for the places before alledged, let them say what they will, it is plaine enough in most of them, that Lay men were admitted into Councils to give voices, and be partners in the judgement.

46 But bee it granted that they ought not to be received, but only as counsellours ; yet still there will be a grievance here, seeing they were never admitted nor summoned thither in that kinde. There were only three Doctours of the Civill and Canon Lawes, (saith *Onuphrius*) that were indeed called thither : or, to speak more properly, sent thither. But what to doe ? to bee slaves and servants to the Lords of the Council. Marke what service *Bellarmino* deutes them to. *Of Laymen* (saith hee) *some few shall be called thither as shall seeme serviceable and necessary for some office in the Council*. That is, in plaine *English*, the Pope will send some such as he meanes to serve himselfe of, so as the gate is shut against all others : and such, saith *Bellarmino*, was the practice of the Council of *Trent*. We desired to heare thus much from him, that our complaint might have the surer ground. This was not the forme of that famous Council of *Constance*, where were present men of great eminency of all countreyes and conditions : those that have left us the description of it, say there were twenty foure Dukes, a hundred and forty Earles, divers Delegates for Cities and Corporations, divers learned Lawyers, divers Burgeses of Universities. And it may easily be gathered from the Acts of that Council, that the Laiques were not debarred from giving of voices, and power of deliberating.

47 At the first Council of *Pisa*, there were the delegates of Universities, the Proctors of Cities, and some Doctours in law, to the number of foure hundred. *All of whom* (saith the Apology) *treating of points of divinity, when they had deposed the two antipopes, that contended for the Popedom, and elected Alexander the fifth Pope in their stead, a most learned and discreet man, made many good ordinances in the Church of God.*

48 At the second Council of *Pisa*, there were also the delegates of Universities, amongst others of *Paris*, *Tholow*, and *Poitiers*, with fundry Doctours in Law, and other men in great abundance, (say the Acts) *well skilled in matters both divine and humane*. Thus should generall Councils bee composed ; mainly then when the question is about putting an end to disorders, schismes, wars, and blood-shed ; then when the Clergy cannot agree themselves. I know well it will be hard to perswade the Pope and his disciples to this ; who having usurped all authority over Councils, surely over Clergy men of the meaner sort, will be loath to let it goe. I know besides, the Pope is not well content that his presidency should be disputed, nor his power of calling and confirming Councils, which he pretends a title to : that he is very impatient that any man should call him in question, and indeed not without good cause ; there is matter enough to put him past his patience. Let us therefore take

take a friendly course, handle the matter gently, conferre together and depute some men of rare knowledge of all conditions whatsoever; it may bee God will bestow his blessing upon it. At least this care, this endeavour, this attempt, will be commendable, and excuse both before God and men, those whom it concernes to provide for such matters.

Nothing done in the Councell but what the Pope pleased.

CHAP. IX.

That this Councell was nothing else but a Papall conventicle.



WE may collect from the former discourse, that no man had any voice in the Councell, but such as were sworne to the Pope; and thence quickly inferre, therefore nothing was done there, but what hee pleased. Though the conclusion be good, yet will we descend to the prooffe of it. King Henry the second saith as much in his act of Protestation; He hath bred a suspicion in all men, (saith he, speaking of the Pope) that this calling of the Councell againe, was not any way for the common good and profit of the Catholique Church, but rather upon compact and accord with those whose interests are served in this assembly: He meanes the King of Spaine, who was the Popes favourite, and by consequence the Councells. Nor was there any Canon, or Decree, or any other thing resolved there, but by direction from the oracle of the Court of Rome; witnesse Mr. James Amiot, Abbat of Bellosane, and afterwards Bishop of Auxerre, who presented the act of Protestation to the Councell the first of September 1551, and who set downe the whole story of it in a letter of his written to Monsieur de Morviller; They will not (saith hee) have this act come to light, till there bee some or other answer to it, which they expect to be sent them from Rome. This makes that story credible, which some have delivered in their writings, urging Mr. James de Ligneris for prooffe thereof, who went to the Councell in behalfe of King Henry, the yeere 1551, to see what was done there; namely, how the article of the residence of Bishops, being even upon the point of being concluded upon, with some infringement to the Popes authority; hee being advertised thereof by his Legates, commanded them to defer the conclusion of that decree for six months; during which time he mustered up, or created anew full forty Bishops of Apulia and Sicily, whom hee presently embarked and made them hie to Trent: and how when they came there they hindred that resolution which was like to have beene made, crying out that the Councell could not set lawes to the Pope, and that they were all nothing but his Holynesses creatures.

Extrat in libello de statu Eccles. Gallic. in schismate.

Extrat in eodem libello.

Du Moulin en son conseil sur le concile de Trente. Et l'auteur de l'advertissement sur la reception du concile de Trente.

The Emperour Ferdinand hath said as much in termes so expresse, in a letter of his writ to Pope Pius the fourth, as takes away all scruple which can bee made hereof. That it may be lawfull (saith hee) for the Fathers, freely to speake and decree that which the Holy Ghost and their own consciences shall suggest unto them without feare or favour, all good order being there observed, by which meanes all confusion which might be feared shall be avoided, so as there shall be no need of running out of the Councell for the determination of such points as are debated in it. Wee are confident your Holynesse will never bend your desires that

Extrat hanc epistolam Parisiis impressam apud Nicolaum Chesneau anno 1563.

Lay men called
to Councels in
France.

Guido Faber in
Oratione sua
habita in Conc.
Trid. 4 Iunii,
ann. 1562.

Voyes les com-
mentaires du
Sieur president
de l'estat de la
religion et re-
publique sous
Henri et Fran-
cois 2. et
Charles 9.

that way ; and that you will never give way to the introduction of any novelty, into a State so distempered and troubled, whereby the liberty of the Councell may seeme to bee any way abated or violated. There are yet other complaints in the same letters, which shew but the too great slavery of those good Fathers, and the little respect that was used towards them.

3 The French Ambassadour gives them also some quips, and those pretty ones, and plain enough : Christendome (saith he) hath reapt but little or no good at all from the many Councels which have been holden in and before our times, both in Germany and Italy ; things remaine still at one stay, that is, in a poore and miserable plight. But the cause of that misery doth now cease, and hath no place in this present assembly ; for their judgements were not free, and for a great many of them there was more subjection to the humors of great personages, than liberty of conscience ; which is much to be feared in a matter of this nature. But as for you, Sirs, who are here assembled in the name of God, you acknowledge no superiour, but the honour of God, and the quiet of his Church.

4 And presently after he addes ; If wee will apply our selves to the humour of this or that Prince whatsoever ; and if we chuse rather to mistake the truth by that meanes, than embrace our owne salvation, and the right managing of affairs ; there is no question but the neglect of our duty deprives us of the glory of heaven, and if so be there be any default of yours in this respect, (howbeit your vertues doe assure me of the contrary) the state of religion will be so desperate, that there will be no hope of remedy left. I have seene the originall copy of a letter in the hands of a learned Catholique, dated the 19 of May 1563, written from Trent to Rome, by Monsieur de Lansac, King Charles his ambassadour at the Councell of Trent, unto Monsieur de Lisle, the same Kings ambassadour to the Pope ; wherein he intreats him to deale so, that the Pope would leave the Councell to their liberty, and send the Holy Ghost no more in a Clokebag. The Lord de Ferriers, assisted by the Lord of Pibrac in his oration delivered in September 1563, touching the precedency of the King of France, before the King of Spaine, accuseth the Pope of bereaving his eldest son of the honour that belongs unto him ; of arrogating unto himselfe power over the Councell, and prescribing unto it what it must follow and observe. And in the letters written by the same Ambassadors unto King Charles, the 25 of November 1563, upon occasion of their retiring to Venice ; they say amongst other reasons, they departed from the Councell, Because nothing was done there, but what pleased the Pope ; and hereupon they stood so long upon determining things proposed, if there was any difficulty, because they must send to Rome to seeke the Popes resolution.

5 This is also the great complaint, which hath ever beene made, and that justly, by the Protestants of Germany. Heare what Paul Vergerius (who had formerly been the Popes Legat in Germany against Luther and the Protestants) speakes concerning it in an Epistle of his to the Bishops of Italy. I desire you moreover to consider a little, and thoroughly to informe your selves of that which Pope Paul the third, and Julius the second lately deceased, were wont to doe : they framed Ordinances and Decrees to their carrier, then they sent them to Trent, with an expresse injunction that nothing should be determined, but what they commanded. Which I know to be very true, because in the time of Pope Paul my selfe being then Bishop was at Trent ; from whence I was ferreted, because I was suspected to have taken notice of it : whereupon they were afraid lest I should disclose it ; howbeit I knew but very little of it at that time. And there is none now but knowes that all the definitions which were first made at Rome by the Popes commandement were sent afterwards to the Legat, that he might looke well to this, that the divines observed the same order and platforme in their disputes, as was prescribed to them. Whence it came to passe, that they commonly say nowadays, The Holy Ghost came to Trent packt up in a Clokebag.

6 A learned man of those times among the Protestants, called *Fabricius Montanus*, hath made a great complaint hereof in a speech of his pronounced before the States of *Germany*; which is contradicted by *Fontidonius* a Doctor in Divinity, he that made the speech in the behalfe of the King of *Spain* at that Councell. I shall content my self with two passages which that Apologist labours to refute in his rejoynder. *As for that (saith he) which you urge and account for a fault, that the Pope doth not submit himselfe to the Councell, but rather the Fathers of the Councell are subject to him, what furtherance can that bring to your cause?* And in another place; *You rake up many calumnies, not crimes, which you doe not confirme by any arguments, as that the Fathers of the Councell doe wholly conforme themselves to that which is prescribed in a certaine schedule containing the declaration of his pleasure.* There are many other writings besides, wherein may be read the same complaint.

The Councell depended wholly upon the Pope.

Apologia Fontidonii.

7 Howbeit the Doctor doe peremptorily deny that it was so, and sayes that the Pope and the Councell did accord very well, yet for all his answer it is not amisse to tell him what *Onuphrius* saith in the life of *Paul* the third, for it serves very well to our purpose. *Being thus highly offended with the Emperour (saith he) without any dissembling of it, he beganne to thinke of suspending the Councell (which he had formerly commanded to bee kept at Trent, in courtesie to the Emperour) and of removing it to Bononia, which he was the more willing to doe, because hee had understood how his dignity was taxed and disparaged by the malice of some suborned Prelates, in certaine sanctions decreed upon in an odious disputation.* See what the Popes use to doe when the Councells doe not please their palat, and doe what they would have them: so Pope *Eugenius* dealt with the Councell of *Basil*, and Pope *Julius* the second with that of *Pisa*. This transferring of the Councell was put in execution, howbeit it was contradicted by divers Bishops, as appears by the eighth Session.

Onuphrius in vita pauli 3.

Aeneas Sylvius in comment. Concil. Basil.

8 We will conclude, we need not seeke a more authentique prooffe hereof than the determinations of the Councell it selfe, which were all entirely submitted to the Popes authority, and which for the most part tend to no other end but the support of his greatnesse. So *Pius* the fourth in a publique oration of his delivered in the Consistory after the conclusion of the Councell, thanks them heartily for having such a tender regard to his authority, when they went about an Ecclesiasticall reformation; in so much that if hee had undertaken to reforme himselfe he should have gone more severely to worke; as appears by that Oration printed with the French translation of the Councell of *Trent*, which was very wisely retained by a learned *Sorbonist*. But indeed it is a thing not much to be marvelled at; for what could such men doe else, which were not their owne masters, which were bound to the Pope by such a strict oath that they durst not flinch from him, yea they durst not so much as speake the truth in what concerned him? So said *Aeneas Sylvius* in an Epistle to the Chapter of *Mayence*: *Even to speake truth against the Pope is to breake the oath of a Bishop.* And indeed marke the purport of one of the clauses in the new oath, *They shall disclose, and effectually hinder with all their might whatsoever shall be plotted, negotiated, or attempted against the Pope.* They are also tyed by the ancient forme, *To defend the Popedome of the Church of Rome against all sorts of men.* Besides it was very equitable that they should doe something for him, considering the benefit they received from him. First, it is to be considered that they were maintained there at his proper cost and charges; which (if it bee duely observed) was no small matter, to defray such a number of men for so many yeares. Pope *Pius* (saith *Onuphrius*) spent a great summe of money in the celebration of this Councell, considering that he gave liberall allowances for diet and maintenance of the poore Bishops and Priests, and to all the Officers of the Councell: a thing which was anciently done by the Emperour.

Cap. Ego de jurejurando. Extra.

Onuphrius in vita Pii 4.

Who to beare
the charges of
a Councell.

Euseb. lib. 10.

cap. 5.

Theodoret l. 2.

c. 16.

Euseb. de vita

Constantini

lib. 3.

Theodoret. l. 2.

cap. 30.

Sozomen. lib. 4.

cap. 16.

Sulpitius Se-

verus sacra

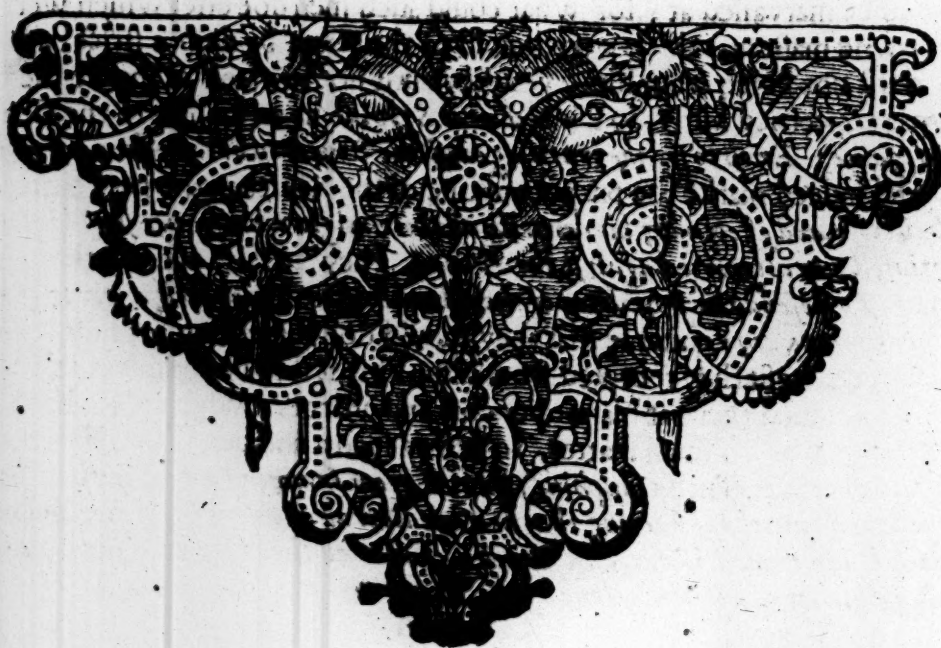
hist. lib. 2.

9 As for this last, we reade indeed that *Constantine* the Emperour feasted all the Bishops of the Councell of *Nice*; that he bore their charges, and gave presents to them; as also he caused his officers to allow them the coaches and horses of the State to help them on their way. The same Emperour sent the chiefe of his Court to *Ierusalem* to minister such things as the Bishops there assembled, with their associates, and all other necessitous people stood in need of. And thus must wee understand that which *Sozomen* speakes of the expences of the Commonwealth upon the Bishops which were summoned to Synods; for this must be referred to the Emperours. *Constantinus* commanded that the Bishops at the Councell of *Ariminum* should have their lodging and diet allowed; but our *Frenchmen* were so scrupulous that they would not accept of it; chusing rather to live sparingly upon their owne pittances, than to feast it at the publique charges.

10 It was good reason this charge should be transferred from the Emperours to the Popes; since they pretend now adayes that the right of calling Councels, and presiding in them belongs to them, which was formerly the Emperours: nay more, since they have now ingrossed all the Imperiall power and dignity into their hands, that so he that enjoyes the honour, should also beare the charges. Yet these are they that underwent this charge, that they might thereby confirme their claime of presidency and convocation which was questioned, and to winne a more favourable verdict from those Fathers. If a Judge may be refused by course of Law, because he hath eaten or drunken with one of the parties, much more may they bee that make themselves domestiques and pensioners, as those Bishops did, whose judgement is therefore lawfully rejected at this present.

11 *Pius* the fourth did them yet another courtesie, for by his Bull of the first of April 1561. hee exempted them from all paying of tenthes during the time of their abode at the Councell: and it is furthermore probable that hee anointed them in the fist with some good fat Benefices, at least the stoutest of them, and those which did him the best service.

CHAP.



CHAP. X.

That the number of Bishops there present was so small, that it cannot be accounted Generall.



Let us here observe that the number of Bishops in this Councell was so small, that it doth no way deserve the style of Generall and Occumenicall. In the first Session there were foure Archbishops, twenty three Bishops, the King of the *Romanes* Ambassadour, the Captaine of the City of *Trent*, five Generals of Orders; and a few Doctors. In the next there were five Bishops and three Abbats more. In the third there was an eke of one Cardinall and two Bishops. In the fourth they were in all nine Archbishops, and forty three Bishops. In the fifth there came in five Bishops more. In the sixth there were fifty seven Archbishops and Bishops in all. In the seventh three Bishops more. In the eighth, forty three Bishops, and eight Archbishops; and so on in the most of the rest, except the last, wherein the number was greater. But what is this I pray in comparison of that of *Nice*, where there were three hundred and eightene Bishops? Or that of *Ephesus*, where there were two hundred? that of *Chalcedon*, where there were six hundred? that of *Constance*, three hundred? that of *Basil*, where were above foure hundred Bishops, and others? The first at *Constantinople* was the thinnest, where there were onely a hundred and fifty Bishops; but the reason of that was, because at the same time there was another holden at *Rome*.

2 We urge this of purpose that wee may serve our turne with that which *Bellarmino* sayes; who would make us beleeve that the former Sessions of the Councell of *Constance* are null and invalid, because that certaine schismaticall Bishops fell off there and were defaulty, because they sided with the factions of the two schismaticall Popes, these (as hee saith) made up two parts of the Church: howbeit in those very Sessions there were present two hundred Bishops, divers Cardinals, the King of the *Romanes* in person, and sundry Princes and Ambassadors. Now by the same reason wee may lawfully say that the greatest part of the Church made default in this of *Trent*, yea & that it was no better than a Conventicle, or at the best a National Councell. And indeed if we thoroughly reade the acts of this Councell, we shall find that the greatest part of the Bishops & Ecclesiasticks that were there were either *Italians* or *Spaniards*; and that there was but a very slender number of other nations; and that especially towards the end. In all the Sessions under *Paul* the third wee finde but two *Frenchmen*, and in some none at all. Infomuch as one of the Presidents of that Councell in a discourse of his in the last of those Sessions, said, *That many Prelates are not yet come, who wee know very well are upon their journey*, (saith he) and especially the devout and noble French Nation. They were not onely not come, but which is more, they came not at all, as appears by the catalogue annexed after that same Session. And after the death of *Paul* the third, the Councell was forthwith broken up, from the fourteenth of September 1547. till the first of May 1551. that it was set on foot againe and continued by virtue of the Bull of *Julius* the third, under whom were holden six Sessions, and not a *Frenchman* assistant in any one of them, as appears by the same

This Councell compared with others for number of Bishops.

4 Yet I have seene a Catalogue printed 1546. where when the 6. Session was set are reckoned but 3. Cardinals, 3. Archbishops, 1. Ambassadour, the Secretary, and Proctor of the Councell, 4. Generals, and 2. Spanish Doctors: in all 38. *Aeneas Sylv. lib. 1. Comment. Concil Bif. Bellarm. de concil. author. l. 2. cap. 19.*

Henry 2. protests against the Council.

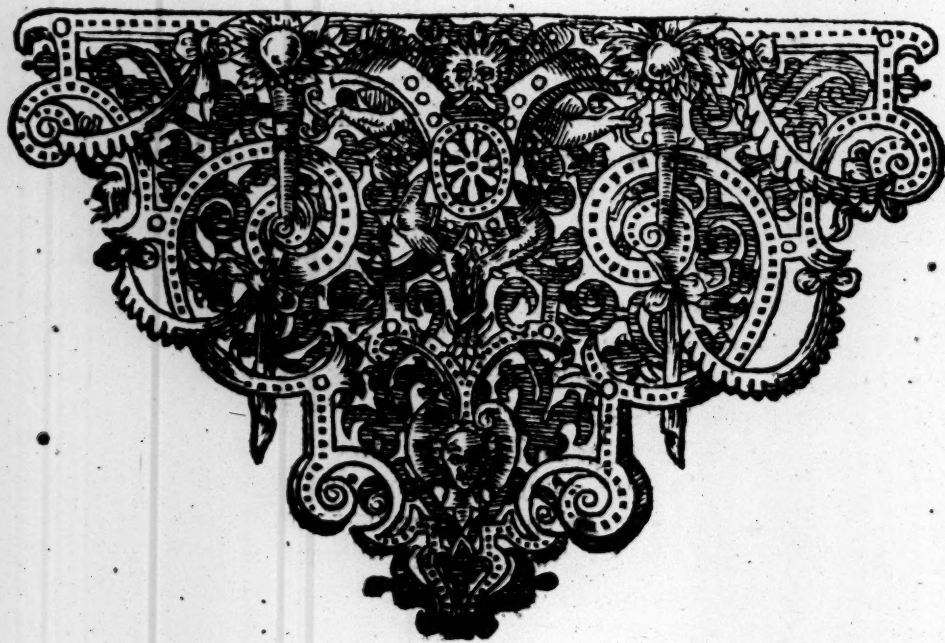
Extrat in libello
de statu Ecclesie
Gallicane in
schismate.

Acts. Thus it was at the time that *Henry* the second protested against the Council, and prohibited the Ecclesiastiques of his Realme to goe thither, as shall be said hereafter.

3 That Protestation may be seene in print, bearing date in August 1551. out of which we have borrowed these words: *He protested (as he may doe by law) that being busied in great warres, hee is not bound of necessity to send the Bishops of his Kingdome to the Council of Trent; inasmuch as they could not have free and safe access thither; and because the Council it selfe, from which he was excluded against his will, is such as was never reputed for a generall one of the whole Church; but rather accounted a privy Council, invented not out of any desire of reforming discipline, and restoring it, but for countenancing and favouring some body: briefly, such as that there are more private respects than publique in it.* Nor was there only a want of French Bishops and Ambassadors there, but besides in all the Sessions holden under those two Popes, there was but a very small number of Clergy men, so that it cannot bee said that it was a generall Council.

4 As for the other Sessions under *Pius* the fifth, from the 18 of January 1562, till the end of the Council, the Bishops and other Ecclesiastiques of *France* were there indeed, howbeit no great store; as also the Ambassadors of *Charles* the ninth. But marke what is urged, *That which is invalid from the beginning, cannot be made valid by tract of time*: the last Sessions could not legitimate the former, nor purge them of that vice which was inherent in them. We may adde moreover, that the same plea of enmity which was alledged for Protestants, holds good also for our Kings of *France*; inasmuch as Pope *Julius* the third tooke part with the Emperour against King *Francis*; and *Julius* the third with heart and good will made open warre upon *Henry* the second, declaring him to be his enemy; whereof he complains in the fore-mentioned act of Protestation: as also that he sought peace and quietnesse by the Lord *Tervien* his Ambassador, and all other meanes possible, but to no purpose.

CHAP.



CHAP. XI.

The nullities of the last Sessions.

AS for those latter Sessions under *Paul* the fourth, it is urged, that being built upon a weake and fraile foundation, they cannot hold out against a tempest, but must of necessity fall to the ground. Authorities for proove of this have beene produced by those that writ before me. Besides, all the faults and defects of the former Sessions, redound unto them, and must be reckoned and imputed to them too; as also all other nullities, which we have hitherto insilted upon, seeing they belong as well to the last Sessions as the first. Over and above all this, we will here adde the complaints that have been made of the inujust proceedings of that Councell. The Emperour *Ferdinand* in his letters written to Pope *Pius* the fourth, May the third 1563, saith, *Wee have with great grieve of heart beene given to understand, that in this holy Councell things are not carried in that order and fashion as wee and all devout people could wish, and which the miserable state of the Christian common-wealth, and our distressed religion might justly require, which growes lesse and lesse every day; it being to be feared, that if convenient remedies bee not presently applyed, the issue of the Councell will bee such as will minister scandall and offence to all Christendome, and occasion of laughter to such as have cast off their obedience to your Holynesse, and the holy Apostolique See, and of maintaining with greater obstinacy than ever those severall opinions repugnant to our faith, which they have already embraced. And a little after; Alas, what a pitifull thing it is, that the Fathers and Doctours in the Councell should begin to abandon themselves to quarrels and contentions, to our great losse and discredit, and to the scorne and derision of our adversaries?*

2 *Arnalt Ferriers*, President in the Court of Parliament of *Paris*, in that oration which he made in the Councell, September the 21. 1563, assilted by the Lord of *Pibrac*, complaines thus; That the Councell did not set about the reforming of the Church as they ought to doe: That it was not the reformation of those which are dead, or those which shall come after, which was demanded. Of whom then? I will not tell you, but it is easie to collect by enumeration, If any will reply, that there have beene certaine decrees made concerning reformation, and that by them satisfaction is given to such things as were demanded. We answer, that they might indeed afford sufficient content, if one thing might be paid for another without consent of the creditor: That there was a great deal of stir about reforming those things that needed not: That Kings and Princes were hereby deprived of their rights: That censures and excommunications had beene denounced against them: That the liberties of the *Gallicane* Church, have beene beleaguerd; whereupon according to the command which they had received from their Prince, they were constrained to oppose themselves as they did.

3 I have seene the letters of King *Charles*, dated August the 28. 1562, written to his Ambassadors the Lords of *Ferniers* and *Pibrac*; wherein hee commandeth them to retire from the Councell, and to cause the Bishops of *France* to retire also. In another oration of his spoken about the end of the same Sep-

Complaints made by the Emperour and the French king

Vid. Can. principatus 1. q. 1. t. Egi tecum.

D. De rejudicari l. Sedet et manente precario.

D. De prec. Canonist. in ca. 51.

qui autoritate de preben. in 6.

Bald. Conf. 301 l. 5. et alios.

Non dico, sed a numeratione facile conclusio inferri potest.

Si invito creditore aliud pro alio solvi possit.

The French
Ambassadours
left the Coun-
cell.

tember, complaining of the wrong done to the French King touching precedence; hee said, *That the French would not acknowledge Pius the fourth for Pope; and that according to the command which they had received, they charged the Bishops and other Ecclesiastiques of France, to retire themselves and depart from the Councell.* They were so hot then, that the Councell was upon the point of inditing them; yea, they had entred the action when they went to Venice, from whence they writ a letter to the Lord Cardinall of Lorrain, that stayed at Trent, dated the 24 of October 1563, wherein they complaine unto him that some French Bishops blamed their proceedings; and amongst others the Archbishop of Sens, who had said, that it was all one as to turn Protestant; that is, Heretique; which they stranged very much at, seeing they had done nothing in that matter but by speciall command from the King. And in the letter which they writ to King Charles from Venice the 25 of November 1563, they certifie him of their departure from the Councell according to his command; telling him particularly the great motives they had of so doing.

4 The nullity of their proceedings shall more plainly appeare by such reasons as we shall urge in the following Books; where wee shall shew how this Councell hath not had so much regard to the justice of the maine demands put up by Catholique Princes, as to asserit and augment that unjust power which the Pope hath usurped over the Church and secular States: and that it hath even trampled under foot the right of our Kings, and the liberties of the Gallicane Church.

CHAP. XII.

That in regard of the protestations made by those that complaine of this Councell, their right remaines entire.

In what case a
Judge may bee
refused.



Ut before we passe to the handling of such points as concern the ground of the matter, it is fitting we proceed to shew, that there is nothing that stops our entrance, or can hinder our passage; that there are no pertinent or approveable reasons for the rejection of our plea. Amongst such as have reason to complaine, some say they were not heard: others,

that if they were, yet that is no hindrance, but the judgement may be reiterated. So then, here is the question, if so be they may have a hearing, whether there must be a Councell assembled againe, or wee must doe them right some other way? The glossator of the Canon law decides the first point, when hee saith, *That he which hath been lawfully obstinate; that is, against whom the formalities required in case of obstinacy, have beene observed, before a judge which is suspected and refuseable, is not bound to send a proctour there to plead the causes of his suspicion; nay, it is not necessary to protest: but even eo ipso, inasmuch as hee hath occasion to make refusall, all the processe is avoidable.* The reason whereof, in my opinion, is, because the judge that knowes himself to be suspected, should have the modesty to refuse himselfe, and not stay till it bee said unto him, *Forbear.* So the old Romans used to doe; and it is the practice in France, which hath been prescribed to us by our ordinances: recusations have ever beene admitted with ease; and oftentimes it hath been sufficient

Gloss. in Can.
ult. caus. 3. q. 5.
in verb. canonis.

a Tacitus fuit
Quintilian. in
dialogo de causis
corrupt. eloq.
b L'ordonnance
de Blois.

ficient to sweare, that the party refused was an unjust Judge, without rendering any further reason. It was to be wished that the Pope had asked his own conscience, and examined whether he could be judge in the case in hand; seeing that he was accused and taken for a party himselfe, and he also prosecuting the condemnation of his enemies, those whom hee had pursued with fire and sword, and condemned already by his Bulls. Which seeing he did not doe, he is therefore the more refuseable, and there is a flat nullity in all his proceedings.

The King of
Englands Protestation.

Uebantur
hac formula
EIVRO. N
NIQVVS
EST.
Asonius in
Verrinam 24.

Steidan. com-
ment. lib. 11.

Surius in his
History, in the
year 1537. out
of the French
translation by
James Estours-
neau.

Surius ibid.

2 In the first place, the Princes of Germany assembled with their Divines at *Smalcald*, the yeere, 1537, after they had proposed by the Vicechancelour of the Emperour *Charles* the fifth, *Matthias Held*, and declared the reasons that withheld them from repairing to the Councell, they published a writing to that effect, the contents whereof were, that a Councell where the Pope and his adherents have the commanding power, ought not to be holden legitimate: That the power of judging belongs not onely to the Pope and the Bishops, but to the Church, wherein are comprehended Kings and other States: That the Pope in this case is a party: That it is not only his power and excesse which is called in question, but his lawes and doctrine, and he is accused of heresie and idolatry: That he hath already condemned those whom he intends to judge in the Councell: That the Convocation of it is not such as was promised it should bee, namely in a place of freedome and safety, and that in one or other of the Cities of Germany. But because the author of this narration may be suspected by some, I will produce his adversaries. *Pontanius* speaking of this assembly, saith, that the Protestants after much deliberation made answer, that they would never give way to the keeping of the Councell in *Italy*, nor that the Pope and his confederats should be presidents of it: That the Pope and his favourits should condemne their doctrine, however sound: That they would not submit themselves to his tyranny.

3 *Laurence Surius* is yet more full; for speaking of that very assembly hee saith; 'The twenty fourth of February, all the confederates made answer at large; which answer I would here set downe, if it were to any purpose. They talked much of the Councell, which they would have to be free, and that *Luther* forsooth and his companions, should have as much power and authority in it, if not more, as the Pope of *Rome*; although it bee directly against the customes of antiquity. And this they said not without many bitter taunts of his Holynesse; saying, that he had broached, and at that present defended a doctrine not only contrary to the word of God, but also to the ancient Fathers and Councels. And anon after, 'The last of February the Protestants made answer at large to the points proposed by *Held*, but I am loath to set them downe: The summe of all that they said, is in their answer to the Councell set forth by the Pope. For they plead, that the authority of judging belongs not only to the Pope & the Bishops, but also to the Church; in which Kings and Princes are comprized. They might as well say, *Hucksters*, *Catchpols*, *Druggists*, *Apothecaries*, and such like. As if it belonged to Lay men, to a Cook, or, a Cowheard, to intermeddle with the questions and decrees of the Church.

4 *Henry* the eighth, King of *England*, although he was then a Catholique, made the like protestation; for heark what *Surius* saith of him. About the same time the King of *England* set out a booke, wherein he shewed the little account he made of the Pope of *Rome*, and that he would neither come nor send his Ambassadors to the Councell which the Pope had called; and hee ever and anon put in good store of jerkes at *St. Peter*. Considering what we have heard from *Surius*, that which *Steidan* relates will not now be suspected.

5 Presently after (saith he) the King of *England* put forth a booke in the name of

The King of
Englands pro-
testation.

Sleidan. com-
ment. lib. 11.

of himselfe and the Lords of the Land : wherein he complained that the Pope took upon him to call the Councell; a thing not in his power to doe : and that he called it then when there was open warre betwixt the Emperour and the French King. Besides, the City of Mantua, where he appointed it should bee, is no sure place for all parts, nor yet convenient. For his part he desired a Christian Councell, but hee would not goe to the Popes, nor yet send his Ambassadors : for their common practice is in such assemblies to oppresse Christ and his truth for their owne advantage. Nor hath he any thing to doe with the Bishop of Rome, whose Edicts and commandements doe concerne him no more than any other Bishops. The custome was to call Councells by the authority of the Emperour and Kings, and it were fitting that custome were put in ure againe, especially in these times when the Pope hath so many vehement accusations laid against him : And yet it would cost a man his life if any one should be so fool-hardy as to reprove him and accuse him to his face, unlesse it were in a lawfull Councell. Nor he, nor his are secured by safe conduct ; and say he were, there are such apparent dangers, as it is not fitting hee should come there : for it is no new thing with the Popes to breake promise, and to staine and imbrue themselves with the blood of innocents. And however other men may safely go thither, yet for his part he cannot, and that for reasons wel known : for the Pope layes snares for him, and hates him mortally, putting him out of favour with other Kings as much as he can : and this for no other reason, but because hee hath cast off his tyranny, and withholden his Peter-pence, which made him so ; and the rather, because hee is afraid lest other Kings by his example may ere long doe the like. At this instant the Councell is prorogued till the first of November, without any mention where it shall be kept, and the fault is put upon the Prince of Mantua. Is not this to gull the world ? the Prince of Mantua wrongs no body if he will not abandon his City to so great a multitude without a garrison : but all the blame should be laid upon the Pope, who doth not as yet goe roundly about the businesse, but is ever a playing trickes and treacheries. If he remove the Councell to another place, he must take a City that belongs to some of his feudatary Princes, or else one of his owne : for he hath a goodly patrimony, with many faire Cities, gotten by his predecessors either by force or knavery, and now kept by him by the bad ritle of coven and fraud. Now seeing that almost every man of judgement doth despaire of ever seeing a true Councell, hee thinkes it most fitting that every Magistrate reforme religion amongst his owne people. If the Pope plead custome, that will not serve the turne ; for, as Saint Cyprian saith, Custome without truth is but an inveterate and grounded errorr. Therefore this is his advice, and this he thinkes the best course ; but if any know a better he will readily embrace it.

Sleidan. l. 16.
This answer
was printed an.
1561.

6 Now the King of England never deserted these protestations and declarations, much lesse the Protestants ; nay they repeated them divers times after ; and amongst the rest at an assembly at Wormes holden 1545. and another at Naumburg the yeere 1561, where an answer was given to the same effect to Pope Pius the fourth his Legats, who came thither to summon them to appeare at the Councell.

V. libellum
de statu Eccle-
siae Gallicae in
Schismate pag.
278. 179.

7 There were yet some other Protestations made against the Councell on the behalfe of our Kings : Henry the second protested against the Pope and the Councell in the yeere 1551, saying amongst other things, That the publication of it which was made, regarded not the good of the Church Catholique, but the commodity of some particulars : That is seemed the Pope would exclude him from it : That the beginning, progresse, and issue of his Holinesse signes did intimate as much : That being employed in the warre which hee had raised up against him, he could not send the Bishops of his Kingdome thither, seeing they could not have safe and free acesse : and that neither he nor the people of France, nor the Prelats and Ministers of the Gallicane Church will be bound to it hereafter.

8 King Charles the ninth, upon notice that all things went amisse in the Councell,

Councell, and that the demands of the Kings and Princes Catholique, were not satisfied, that the reformation was not applyed to such things as stood in need of it, and were required to be reformed; yea more, that they intrenched upon the liberties of the Church of *France*, and the rights of the Kingdome, caused protestation to be made by his Ambassadors against the same Councell, as appears by the Oration made by *M. Arnald de Ferriers*, the 22. of September 1563. where amongst other things, after he hath laid downe many grievances, he saith, *that according to the command of the most Christian King they were constrained Concilio intercedere, ut nunc intercedebant (to interpose in the Councell, as they interposed.)* Whereupon it is storied, that a certaine Prelate of the Councell not well understanding the propriety of the word *intercedere*, which the Tribunes were wont to use of old when they made their oppositions and hindrances, asked his neighbour, *Pro quo orat Rex Christianissimus?* What doth the most Christian King intercede for?

There were diverse Councels about the same thing.

9 But say the Pope and the rest that joyned in judgement with him were not to blame; say they were competent Judges, & such as could not be refused; say the proceedings were lawfull; yet still it was a judgement and sentence passed upon men in their absence, so that the doore is open to all those that will enter their plaint: they may justly demand to beginne anew, and that things be reduced to their first state. A repeal may be had against a sentence given in case of contumacy, onely paying the charges. But for them, I thinke the Pope that bore them will never aske them againe: and if hee should, it is a question whether his demand were good or no: for who bid him be at the charges? he was not bound to it: it is a liberality which he was willing to undergoe, to shew his magnificence: and in case he might redemand them, hee must commence his action either against those whom he defrayed, or against the Emperour, who was anciently used to pay them, and not against those who do now desire to justifie themselves; seeing that according to the Decrees of *Constance* and *Basil* Generall Councils should be holden every ten yeeres.

Con.

10 Let us proceed further, and see if they could have any good grounds to demand, that a second judgement might be had, supposing they had appeared at the Councell, and had audience there. For this may be questioned in regard of the King of *France*, who complains now how hee was wronged in his rights, and yet he had his Ambassadors resident at the Councell, We say hee is here the worse for all that, considering that divers protestations were made against the Councell on both sides. This we shall prove by some examples.

11 We reade how the *Donatists* were many times condemned, and that by many; how the Emperour *Constantine* the Great, yet the whole Church, and the great Doctors of those times, bore with them in their reciduations, without ever troubling them with writs of refection of their cause, and other such shackles of law-formes. They were first sentenced by Pope *Miltiades* and his Councell at *Rome*; from which they appealing, their cause was afterward examined at the Councell of *Arles*: the Emperour *Constantine* the Great tooke the paines to heare them himsele: and yet after all this, under the Emperour *Honorius*, and by his command there was a generall conference of all the Bishops Catholiques and *Donatists* at *Carthage* in *Africa*. Where it is to be observed, that the Catholiques desired that Conference: so saith St. *Augustin*, who was one of the disputants, *The Emperours commission being read, it was declared how the Catholiques had demanded the conference, and that it was granted unto them.*

*Augustin. in breviculo
Collat. cum Donatistis.
Et Optatus Melior lib. de schismat. Donatist.
Et Callario. Carthagini habita.
Idem August. in Collat. 3. dist. cap. 12.
Idem ibid. 19.
Idem ibid. 22.*

12 It is well knowne how many Councels were called and kept to convince the *Arrians*: the first that was holden against them might have sufficed, namely, that of *Nice*, considering the same and worth of it; and yet there was another Generall Council holden at *Sardis*, where the Emperours suffered them

The carnage of
the Councell at
Ariminum.

a *Hilarium in
fragmento ex
opere historico.*
b *Sulpitium Se-
verum in historia
sacra.*

c *Idem Sulpiti-
um li. 2. Sac. hist.*
*Ac si qui perti-
naciùs obfiste-
rent, dummodo
is numerus intra
quindecim esset,
in exilium pel-
lerentur. Idem
ibid.*

*Dubium annis
[Hilarium sci-
licet] & mag-
nâ curarum mo-
le astuans, cum
plerisque vide-
retur non ineun-
dam cum his
cômmunionem qui
Ariminen[sis]
Synodum rece-
pissent, optimû
factu arbitratum
[sic legendum,
non, arbitrari]
revocare [inci-
pit,] cunctos ad
emendationem
et penitentiam
frequentibus
intra Gallias
Conciliis, atque
omnibus serè
Episcopis de er-
rore prosternit-
ibus apud Ar-
minum gestis
condemnavit,
& in statum
pristinum Ec-
clesiarum fidem
reformavit.*
d *Vide Epist.
Concil. Aquil-
leensis ad imp.
Gracian. Va-
lentin. &
Theodos. &
alia vasa
Concil.*

e *Vide Concil.
Constant. 1.
Tom. Conc.*

to dispute anew all that had been controverted and canvassed, and especially of that holy faith and the integrity of that truth which they had violated: so say the Fathers of that very Councell, in a letter of theirs to Pope *Julius*. And after that there were yet two others called both at one time, one at *Ariminum* of the Western Bishops, the other at *Seleucia* of the Eastern: where, howbeit the Catholique Bishops were more in number than the *Arrians*, yet they suffered themselves to be supplanted, chiefly in that of *Ariminum*, by the subtilty of the other, who were backed with the favour of the Emperour *Constantius*.

13 But it is expedient we here set down the very words of a *Sulpitius Severus*, who hath well related the whole History; After (saith hee, speaking of the Councell of *Ariminum*) that they were all met, they divided themselves into two companies, ours took the Church, the *Arrians* another place, who were in all but foure score; the rest, who were three hundred and twenty, were all of our side. After many disputes, and a delegation to the Emperour, this was the issue; Many of our men, partly by reason of faint heartednesse, partly of distemper which their long journey had cast them into, yielded themselves to the adversaries; who after the returne of the delegates, were now growne the stranger party, and had bestowed themselves in the Church when they had expelled our men; and having once daunted their courage, they ranked themselves in great troupes on the other side. If we would here stand upon terms of non-admittance, our case were desperate. What would bee said against this Councell? It is true, *Constantius* the Emperour was inclined to *Arrianisme*, yet for all that he allowed them to dispute with all freedome; there were a great many more Catholiques there, than other; hee used no kind of violence against our men, but onely commanded his Lievetenant not to suffer any body, either one side or other, to depart the Councell, till such time as they were agreed; yet so as hee should meat and maintaine them at his charges: Only he ordained, that in case they should come to accord, so as not above fifteen dissented, those should be banished. The number of *Arrians* grew so great at last, that the Catholiques were almost quite out of hopes. But marke here one thing observable, such as, if others will not make use of, our *French* ought to take notice of, because it is a domestique example. The Catholiques that remained, being but a very few, were so scrupulous that they would have no communion with such as had received the Councell of *Ariminum*; *Hilary* on the other side thought it best to converse with them, and to call them to such Councells as were frequently holden in *France* upon such occasions: and hee wrought so, that correcting them, and advising them to repentance, they almost all acknowledged their error, and in fine, the Councell of *Ariminum* was condemned, and true faith replanted in its former state. See here how those that go astray should bee dealt with; see what use there is of the frequency of Councells. That which cannot be done in one, may be done in another. A Councell is the touchstone to try doctrine by, so it be free, and not enslaved.

13 Let us not then so rest upon the determinations of one Councell, as not to be willing to come to another: for notwithstanding all that passed concerning the *Arrians*, the Councell of *Aquileia* under *Theodosius* the elder, did not sticke to give audience to those that remained of that sect, and dispute with them, and convince them. How necessary this Assembly was (say the Fathers there) will appeare by the event: considering that *Palladius* and *Secundianus*, these two enemies of God, defenders of the *Arrian* sect, who onely durst come to the Councell, after they were convinced of their impiety, had such a sentence as they deserved passed upon them to their face. And it appeares by the Acts of that Councell, that *St. Ambrose* disputed with them.

14 The General Councell of *Constantinople* holden about the same time proceeded likewise to the condemnation of *Arrianisme*, and that upon the advice, which

which the Councell of *Aquileia* gave to the Emperours, *Gratian*, *Valentinian* and *Theodosius*, who sent the letter to *Constantinople*.

15 The third Generall Councell at *Ephesus* under *Theodosius* the younger, had condemned the doctrine of *Nestorius*; and yet for all that the fourth Generall of *Chalcedon* did not sticke to take it under hand againe, as *Isidore* saith, whose words are inserted in *Gratians* Canons, to make one of the Popes Lawes.

16 The *Felician* heresie was condemned in a Councell in *Germany*, called by *Charles* the Great: it was after that condemned by Pope *Adrian* and his Councell at *Rome*: and lastly it was condemned at *Francfort*, at a Councell called by the same Emperour, whereof *Rhegno* makes mention: In this Synod (saith he) the *Felician* heresie was condemned the third time.

Councils have been repeated about the same thing.
Can. dist. 15.

Aimonius l. 4.
cap. 83. 85.
V. *Alia* Concilii
Francof. to.
3. Concil.
Rhegno
sub ann. 794.
In hac Synodo
tertio condemnata est heresis
Felician.

17 There are many more examples of this kinde that have beene observed by such as writ before us: we will adde but one more very proper for this discourse. The second Councell of *Ephesus* had beene lawfully called and lawfully begunne; Pope *Leo* had consented to it, yea and sent his Legats thither also: yet for all this the proces of it was illegitimate, there were some quarrels, practices and plottings of murders after al that; the Popes Legats retired themselves, and protested against it, yet nevertheless it held on. But what was the issue? *Leo* rejected and detested it, who had formerly approved it; hee begged another of the Emperours, and obtained it, which was at last assembled at *Chalcedon*. But to give a better lustre to this example, wee must see what *Leo* saith at first, and then we shall see what he said at last. In his Epistle to that Synod at *Ephesus* he saith, 'For as much as such things ought not to be neglected, and seeing it hath pleased the most Christian Emperour to cause a Councell of Bishops to be assembled, to the end that by more sound judgement all errors may be abolished, we have sent our brethren *Julian* a Bishop, and *Renald* a Priest, with our sonne *Hilary* a Deacon, and *Dulcitius* the Notary, of whose fidelity wee have experience, to the end that they may assist in our stead in your holy Assembly, to ordaine by commune consent with you, such things as shall be well-pleasing to God. Hee saith as much in other places, and namely in an Epistle of his written to Bishop *Julian*, he saith he hath given sufficient instructions to his Legates. Now let us see the other side. In an Epistle of his to them of *Constantinople* hee saith, 'Having understood what hath passed at *Ephesus*, contrary to the judgement of all men, we confesse our heart was much grieved, and wee should never have thought that injury had got the head start, had not our sonne *Hilary* the Deacon, who was sent thither with others to supply our place in the Councell, returned from thence by flight, to scape the having a hand in an unjust sentence. For when our Legats opposed, the Bishop of *Alexandria*, having usurped all power into his owne hands, refused to give eare; he drew the Clergy to his side against their wills, and made them subscribe by force, howbeit there was no reason at all to proceed to any condemnation. And in his Epistle to the Emperour *Theodosius*. 'Whiles particular interests are prosecuted under pretence of religion, a fact hath beene committed by the impiety of some, whereby the whole Catholic Church is blemished. For we are given to understand, not upon uncertainties, but by the credible relation of *Hilary* the Deacon, (who fled away from thence, lest he should be compell'd to subscribe) how that many Ecclesiastiques arrived at the Councell, who would have beene very serviceable both for deliberation and judgement, if hee that assumed unto him the first place would have contained himselfe within the bounds of Ecclesiasticall modesty; and beene content (as the manner is) with a faire and equitable examination, with all liberty of speaking what is agreeable to faith, and profitable for those that are in an error. But on the contrary, we are informed that

Leo in epist. 14.
ad 2 Synod.
Eph. tom. 2.
Concil.

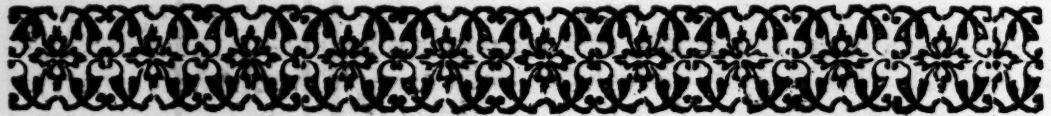
a *Idem* *Leo* epist.
ad *Flavian*.
Constan. 15.
Ad *Theod.*
August 16.
Ad *Pulcherium*
17.
A *Julianum*
Episc. 18.
b *Leo* epist. 21.
ad *Constant.*

Idem epist. 23.
ad *Theod.*
August.
V. etiam epist.
26. ad *Fauftum*
et 30. ad *Martiri*, et *Fauf.*

Pope Leo's
protestation
holds good a-
gainst Trent.

all those that came to the Councell did not give voices in the judgement; and that some were put backe, and other some admitted, namely, such as had rendered their hands captive for the subsigning of those impious subscriptions; knowing that it would goe ill with them, unlesse they did what they were enjoyned. And after that; Which our Legats perceiving, they boldly protested, as they ought to doe, &c. And yet after. Wherefore (Reverend Emperour) we intreat you to command that all things abide in the same state they were before this judgement passed, till such time as a greater number of Ecclesiastiques be assembled from all parts of the world. There is nothing in this but may be said at this day against the Councell of *Trent*, as we have formerly proved; and to make it the more evident, wee will adde the protestations that have beene made against it at divers times, and by divers men, that we may from thence conclude, That neither absence nor presence could be any prejudice to those that now finde fault with this Councell.

* *



A





A
R E V I E W
 OF THE COUNCELL
 OF T R E N T.

B O O K E II.

C H A P. I.

*Of the denyall of justice made by the Councell to such demands as
 were there proposed by Catholique Princes.*

HAVING treated of such nullities as concerne the forme and proceedings of the Councell, wee now come to those which concerne the matter: and these we make of two sorts; for they consist either in the denyall of justice, or in the making of unjust Decrees. For the first, wee may truly say, this Councell made no conscience of satisfying the requests and demands of *Christian* Princes. I will not speake of those the Protestants made, and others that have drawne backe from their obedience to the Pope, but onely of such as were made by Catholiques, the Emperour, the King of *France*, the Duke of *Bavaria*, the whole *German* Nation, represented in an Assembly of the States, and others, upon the point of reformation. Some of those demands, though but very few, were taken into consideration, and judged by the Councell: so that by consequence, though the judgement were unjust, we cannot ground a plea of denyall of justice upon them: however not to divide them from the rest, wee shall here set them downe, after we have done with those that concerne the Pope and the Court of *Rome*: not meddling with others, nor with the points of Religion now in controversy, which belong properly to Divinity.

Nullities in the
 matter of the
 Councell.

^a The Emperour *Ferdinand* by his Ambassadors (as a Catholique historian hath

The demands
of the Emperour
and French
King.

These demands
of the Empe-
rour and some
others, are re-
lated by Na-
tali Comes l. 4
bist. sui tem-
poris.

Natalis Comes
lib. 14. bist. sui
temporis.

Vid. Centum
gravamina.
Et Orationem
Eusebii
in comment.
ad cap. 1. apist.
ad Titum pag.
67. & 134.

hath it) desired a reformation both of the Pope and Court of Rome; to have the Cardinals reduced to the number of twelve, or twenty six at most; an abrogation of scandalous dispensations; a calling in of immunities granted against common right; a reducing of Monasteries under the jurisdiction of the Bishops of the Dioces where they stand; an abatement of the multitude of Canons and Decrees; a repeal of many that are superstitious; a reducing of Ecclesiastical constitutions to the rules of Gods law; prohibitions against proceeding to excommunication, unless it be in case of mortall sin, or publique scandall; a purging of Masse-books and Breviaries, and expunction of that which is not taken out of the Scripture; ajoyning of certaine prayers & orisons in the vulgar tongue, together with the latine hymnes: communion under both kinds: a mitigation of that extreame rigour of fasting, and licence for eating flesh: a permission for the marriage of Priests: a rasing out of divers glosses upon the Gospels, and a making of some new oaths by the most learned men, which all Curats should bee bound upon great penalties to receive.

3 The King of France his Ambassadors, had some such like Articles in their instructions: as concerning the reformation of the Court of Rome, excommunications, the restoring of the cup, marriage of Priests, prayers in a knowne tongue: and for this last their instructions were expresse, to demand that Psalmes might be sung, the Sacraments administred, and a Catechisme made in the vulgar tongue: And besides, to assist all such as should require a just reformation in all other matters. The originals of these instructions which I have seene, were signed by the late King Charles, the Queen mother, Monsieur the Duke of Anjou, the King of Navarre, the Prince of Rochesuryon, the Constable, the Duke of Guise, the Marshal Memorancy, the Chancelour of the Palace, and some others. Hereupon the King of France his oratour said when they proposed these demands, that they did wonderfully agree with those of the Emperour, and for that reason they had deferred the proposall of them; supposing that if the other were assented unto, they should also be satisfied: But perceiving the lingrings and delays that were used in that behalfe, and withall pressed by the letters of the King their master, they were constrained to make a motion of them. They required further, that all mandates of provision of benefices, all reversions, reassumptions, resignations, holding of livings in trust, and commendams might be quite taken away, as contrary to the decrees; and that resignations in favour might be banished the Court of Rome, as forbidden by the sacred Canons; that a course might be taken for instructing the people what they ought to believe concerning the worship of Images, and to cleare it from all superstitions and errors, if any were crept into it: and the like essay to be made about indulgences, pilgrimages, reliques of Saints, and fraternities: that not only the ancient forme of publique penance might be restored in the Church for heinous and publique offenders, but also publique fasts for the appeasing of Gods wrath: that general Councils might be holden every ten yeares: that for abridging of suits about benefices, that distinction of petitory and possessory might be taken away: or rather for the utter extinguishing of such suits, that Bishops might be enjoined to bestow them not upon such as seeke after them, but those that are worthy of them and avoid them; and for certaine prooffe of their merits to make them preach sometimes, and those such as have taken some degree in the Universties, upon whom onely livings might be conferred by the consent of the Bishop and the people.

4 The Catholique Princes and all the States of Germany, assembled in an imperiall Diet at Noremberg 1522, put up certaine articles in some points agreeing with these, but in number farre more: Which they imparted to Mr. Francis Cheregat, Pope Adrian the 6 his Legat, upon the declaration which he made unto them in the behalfe of Adrian; that for appeasing differences

in

in religion, and reforming of abuses, a free Councell should be called. He departing sooner than any man expected, it was decreed to send them to the Pope, to the end that he might be provided for their just demands at the time of the Councell. Amongst other things they complained against the forbidding of meats, and marriages at certaine times: of those mercenary dispensations, whereby all that great rigour was remitted for a little money: against the abuse of indulgences, by which meanes *Germany* had been polled and impoverished, sinnes remitted as well future as by past, soules delivered out of purgatory; remedies applyed to all diseases by promising the assistance of some particular Saint: against the weakening of ordinary jurisdiction by drawing all to *Rome*, and that at the suit of Lay men; nay the utter extirpation of it by the Popes granting of Conservators, or sending of Commissaries: Against the exemptions and immunities granted to certaine monasteries by the Popes; the entrenching upon the right of advowson; the usurping of the benefices of such as dyed in the Court of *Rome*, or in the way thither; the tricks that are used to hook in the benefices of such as converse with Cardinals, by pretending that they are of their table; nay even such as never were in the Court of *Rome*, under colour that they were officers either of the Popes household, or of his Court: the many suits that are commenced in the Court of *Rome* about benefices, even against those that have quietly enjoyed them for many years, who by reason of their age, and indisposition of body, are enforced to condescend to some unjust conditions, to allow pensions, reversions, and such like charges: Against the cautions that are put in at *Rome* for all kinde of benefices, the collation whereof doth of right belong to the Ordinaries: Against reservations for the future, conferring of benefices upon strangers at *Rome*, and ignorant persons; as also the bestowing of Abbacies, Priorships and other Ecclesiasticall dignities to bee holden in commendam; against the impunity of Clergy men, by reason of their priviledges: Excommunications for petty matters, and that even for the fault of neighbours, which they cannot avoid: Against the interdicting of a whole towne or townes upon the murder of a Clerk: Against the excessive number of Holy dayes: Against the abuses and attempts of the Clergy in poyn't of jurisdiction almost in all causes and occasions, to the prejudice of the Laity: As also the abuse in excommunicating Lay Judges, whereby they compell parties to compound, because they cannot have justice: Against the abuses committed by the Popes Legats, and the Countie Palatines of his institution.] And other things of this nature, which it were too long to set downe.

5 The Oratour of *Albert Duke of Bavaria* according to his masters command, was very earnest for the marriage of Priests, and the restoring of the cup: and for the former, hee first tels the occasions, before he maketh his demand. * In the last generall visitation (saith he) over all *Bavaria*, wheresomever was found so frequent, that scarce three or foure of an hundred but were either common whoremongers, or privately married, or else publicly. And hee afterwards addes; * Men of judgement and discretion, who have more newly and exactly examined these things, are of opinion, that to supply the scarcity of a learned Clergy, it will be very hard to make up so many as to suffice for divine service, especially at this time, by any other means, unless it be by admitting unto holy orders such married men as have learning and ability to instruct others, as it was accustomed in the Primitive Church; especially that they may preach the Word of God. For the other point, heark what he saith, * There are not a few that depart from us, and side with those sectaries that stand for the defence of both kinds: being of opinion that the Word of God is expresse for communion under both kinds; but for one kind only not a word. Whereto we may adde, that the use of both kinds is frequent

Grievances put
up by the Princes
of *Germany*

August. Petrus
Garinus, regius
oratio exposita
est Parisiis an-
no 1563. apud
Johannem
D'Alhier.

The Duke of
Bavaria's de-
mands.

quent and evident not only in the Primitive Church, but in all the Easterne Churches at this day; yea the Church of Rome it selfe was not exempted anciently from this custome, as may be easily proved by divers testimonies of History. Lastly, after many discourses upon this subject he concludes;

6 That the most experienced and wisest Catholiques thinke that the people who are puffed up with a desire of innovation cannot be kept in obedience to the See Apostolique, nor diverted from a separation to which they are inclining, unlesse holy orders and licence of preaching be conferred upon chaste married men, to take away the liquorish custome of keeping Concubins; and also the use of both kinds be allowed to appease the minds of the incensed multitude. He goes yet further, and shewes that there is somewhat to bee reformed in matter of opinion and doctrine: which notwithstanding he will not meddle with, till such time as this entrance upon a reformation be brought to some issue; considering the jealousie he hath, least that designe might breed some trouble. But when this is done (saith he) it will be then full time, when all things shall bee at quiet amongst us, to enter upon a more solid consideration of doctrines and opinions. Now what manner of consideration that must be, if it be for the good of the Catholique religion; my most Illustrious Prince is not peradventure the only man that knows; but is plainly perceived by the common voice, and that not to bee slighted of devout Catholiques concerning this point. And if so bee that his Holynesse opinion bee demanded herein, hee could without much entreaty informe what hath beene any way treated of concerning this matter.

7 Many more requests and demands were put up aswell by the Ambassadors of the forementioned Princes, as others; which wee cannot at this present set downe, because wee have not the Acts by us. And it is farre from our intention to speak any thing without prooffe. We may here adde the consultation which was made when the Councill was talked of at the commandement of Pope Paul the third 1538, by the Cardinals and other Ecclesiastiques, in number nine, deputed for that purpose, to advise him what was best to be done about the reformation of the Church. In which Act they say expressely, *That all the discords, abuses, and diseases now reigning in the Church, which hath brought it almost past hope of recovery, proceed from the Pope and Court of Rome; and that conceits which their flatterers have buzzed into them, that they may do what they will, that they are the Lords of all benefices, that it is impossible for them to commit Simony, considering that the proprietary may lawfully sell what belongs unto him. And on the other side they set downe this maxime, That it is not lawfull for the Pope to take any thing for the use of the power of the Keyes, which Christ hath committed unto him; seeing Christ hath commanded, Freely ye have received, freely give. They set downe many other heads of reformation like these, which were never provided for. As for example, the abuses committed at Rome in the granting of benefices and Ecclesiasticall dignities, by dispensations, indulgences, exemptions, reversiones, commendams, &c. which are all derogatory to the Canons of the Church. And yet these deputies composed these Articles of reformation, after the Pope had charged them by oath to tell him the truth upon paine of excommunication, as they themselves testifie in the same Act.*

Extat hec consultatio in eo, 3.
Concll. pag.
819. in Coloni-
ens. edit. facta
1551.
Item apud Sleiden.
Et ejus capitula quaedam
referuntur ab
Essenens. in
comment. in
epist. ad Thim.
pag. 71.

CHAP.

CHAP. II.

Generall complaints touching the reformation of the Head.

After the proposall of these demands, I will now shew you two things; First, that the Councell never touched upon most of them, and therefore there was a plaine denyall of justice: Next, that they are no new demands, being they were made and repeated divers times, in divers ages, and by divers men; to which we shall adde the severall complaints

Reformation
of the Head de-
sired, but not
obtained.

that have hereupon beene made by many good men, for the most part of the Clergy. The very same demands were also for the most part made by the Protestants, and the rest that had relinquished their obedience to the Pope. But I will not speake a word of that; as I protest also that I will not use reasons of divinity to justifie them, nor authority of Fathers, but very seldome.

2 The first and principall, and that upon which many others depend (which we shall onely handle, not meddling with the rest) is the reformation of the Head, that is the Pope of Rome, which was required by the Emperour Sigismund, and that in termes very respective; heare his owne words. *First, that the supreme Bishop would be intreated to condescend that there might bee some reformation in himselfe and the Court of Rome.* Conformable whereunto was the King of France his demand, for hee required in expresse termes that the abuses of the Court of Rome might be reformed, with proffer of reforming those of his owne kingdome; besides, his Ambassadors had an expresse Mandamus to adhere unto such as should desire any reformation. Pope Adrian the sixth had professed also that it was very necessary, in regard of the great abuses and corruptions of that See. The Deputies of Pope Paul the third make all the abuses and maladies in the Church to be derived from thence. Those enormities which were required to be reformed, were the cause of all the schismes and divisions in those times; for thence grew the first originall of complaining; that was it that caused this Councell to be so desired and sought after.

3 Yet for all that the Fathers of that Councell would never touch upon it so much as with the tip of their finger. This is plaine from all the Acts and Decrees of it, as also from the oration which Pius the fourth made in the Consistory, upon the confirmation of the Decrees of that Councell. *Wee heartily thanke the Fathers (saith he) that in matters concerning the correction of Ecclesiasticall discipline, and reformation of manners, they had so much respect unto our authority, and were so moderate on our behalfe, that if wee our selves would have beene our own reformers in what concernes us, and not have left all to the Fathers, we should have beene more severe against our selves.* Adding afterwards: *If the Fathers for reasons best knowne to them, have omitted any thing, or beene too sum-
morous, we are ready to relieve their modesty, and supply the rest, as being left to
our judgement.* See here faire promises, but we yet expect the performance of them. We will here adde by way of commentary, that which Claudius Espensous a Sorbon Doctour, and a witnesse above all exception hath written here-
upon.

4 Wherefore (saith he) that Councell so much desired by all men, interrupted for tenne whole yeeres, at last obtained of Pius the fourth, resumed again at Trent,

Claudius Es-
pensous in ep:
ad Titum c. 1.
digres. 2. p 74.
et 75.

The Authors
protestation.

Ezek. 9. 1.
Pec. 4.

Idem Effenze-
m ibid pag. 76.

Vid Paula &
Eustochii Epist.
ad Marcellam
inter epist. Hie-
ronymi.

and there assembled the third time, although all was by the Pope referred to the Fathers, yet it so forbore the purging of the Court of Rome, that even in all that is prescribed to inferiours, touching the reformation of manners and Ecclesiasticall discipline, it protested that the authority of the See Apostolique stood safe and sound; in the 21. Canon of the ninth and last Session. In so much that the same Pius no lesse pious than sensible hereof, did heartily thanke the Trent Fathers, in an Oration which he delivered publikely at Rome in his Consistory of Cardinals, who were there assembled in great numbers, that they had such a speciall regard of his authority, in the Ecclesiasticall reformation, and had used him so gently, that if he should have undertaken to reforme both himselfe and those about him, he should have bene more severe. What remaines, then but that he refuse not the authority of a reforming Cancell? and that he supply what the Fathers for certaine reasons did omit? and that wherein they were over timorous, it being left to his discretion, as he promised to doe in that Oration? For if it was as truly as freely spoken by Pope Adrian, that the corruption of manners now reigning is derived from the head to the body of the Church, it is requisite that his successor Pius (since his Sanctu-ary, and beginne at his owne house. He sees well enough to what plight the Church of the holy Apostles, yea the whole Church of Christ is brought by the base gaine and filthy avarice of some of his predecessors; who sought that which was their own and not that which was Christs: how many men are gone away from it within these few yeeres, in so much that it is to be feared there will more goe yet, if hee doe not now at last apply some remedy, after much delay of salving those sores wherewith the Church is oppressed; which delay, the longer it is, the more chargeable it will be. The principall cause of these so long stirres, is, because for so many yeeres no-thing is altered, nothing amended: and that which cuts off all hope of reformation, is, that they would see a reformation in all the rest of the body of the Church, who have suffered for so many hundred yeeres together that City wherein they have both moere and mixt power and jurisdiction to bee the most deformed of all. For what excuse can they alledge, or what can they invent either true or likely, they to whom neither King nor Emperour, people nor Clergy, not a Generall Councell, no nor the whole Church must say so much as, Why doe you so? What pretence, I say, can they have for delaying so long to reforme them and theirs? For where shall wee finde under the same greater licentiousnesse in all evil, greater outcries, greater impunity, I had almost said infamy and impudence? Without doubt such and so great it is, that none will believe it but he that hath seene it; none will deny it, but they that have not seene it.

5 See you here what this excellent Devine speaks without any flattery; but let us go to them of more antiquity and see how long it is since these complaints against the See of Rome beganne first to be made. If wee beleve the same author, this complaint is pretty ancient, and it is a long time since this reformation hath bene called for: for see you what hee speaks of it in the se-
quels of the fore-cited passage: I will omit the complaint which hath ever bene made thereof from age to age, even from St. Jeromes time.

6 Nor will we take our rise so high, but will insist upon these latter ages. But here first I protest I have no purpose to discover the shame of that supreme See, to expose her faults to derision and mockery, but onely with intent to see them corrected and amended. As also I declare that I meane not to enquire into the personall vices of the Popes, for that would rather tend to calumny and injury, than the end which I purpose, but onely the abuses of the Pope-dome, the maladies of the See, the usurpations and over-bold attempts which have bene derived to their successors; briefly, no more but such vices as are be-
come hereditary. Which to compasse wee will beginne with the generall complaints that have bene made in divers ages, and thence descend to parti-
culars, as from the bole to the branches; speaking alwayes by another mans
mouth,

mouth, unlesse it be when the connexion of places shal enforce us to contribute something of our owne.

7. The Acts of the Councell of *Rhemes* holden under *Hugh Capet* the yeere 990. have these words: *Poore Rome, what cleere lights of fathers hast thou brought forth in the time of our predecessours? what horrible darknesse hast thou poured out upon our times, which will redound to our shame and dishonour in future ages? Hildebert Archbishop of Tours, who lived about the yeere 1100. hath left us two pretty nipping verses against the Popes:*

*Rome, to be masterlesse were well for thee,
Or some to have not void of honesty,*

Saint Bernard, who lived under the Emperour *Conrade*, and Pope *Eugenius* the fourth, cries out bitterly against the vices that were even then annexed to the Papacy: as against ambition, dominion, pompe and vanity, avarice, jurisdiction over temporall goods, against the abuses of dispensations, indulgences, appeals, exemptions, and such like wares; wee will bring the places hereafter, and dispose every one in due order. That holy man is to bee commended for speaking so home of those abuses, and that even while hee wrote to a Pope; for which cause he is applauded by every one, and with a certaine emulation cited in honourable termes by all those that lived after him.

8 *Marsilius* of *Padua*, who writ above three hundred yeeres agoe in the time of the Emperour *Ludovicus Bavarus*, about the yeere 1320. hath spoken of the abuses of the Pope and the Court of *Rome*, both in grosse and by retails: for in the 24. Chapter of the second part of his booke intituled *Defensor pacis*, he saith, *That the body of the whole Church hath beene infected by that plenitude of power which is allowed unto the Pope; and he addes afterwards, Let the faithfull cast their eyes that way, those who have visited the Church of Rome (which I might more truly call a shop of traffique, an horrible den of thieves) shall plainly see, and those who were never there shall learne by the report of an infinite number of men of credit, that it is become the receptacle of all rogues and rascals, of truckers for all wares both spirituall and temporall; for what is it else but a haven for Simoniackall persons, who repaire thither from all quarters? what else but a noise of Lawyers, an assault of detractors, a vexation of honest men? the justice of the innocent is there in hazard, or else is so long deferred (unlesse it be redeemed with money) that being at length quite exhausted, and wearied by infinite troubles, they are enforced to give over their just causes full of commiseration. For there the lawes of men doe ring again, but Gods lawes are either quite dumb, or at least very rarely understood. There is nothing but plots and projects how to seise upon Christian countries, to win them by force of armes, and wrest them out of the hands of such to whom they doe of right appertaine. No further care, no consultation ever about the conquering of soules. Besides, no order dwels there, but a perpetuall horrour.*

9 In the eleventh Chapter of the same Booke, hee makes a long discourse of the robberies of the Popes and the Court of *Rome*: of their Simony, luxury, sensuality, vanity, desire of domineering, and of invading Lordships and Principalities; and in an infinite company of places hee shewes the unjust power which the Popes arrogate unto themselves over matters both spirituall and temporall, and the meanes they used to usurpe it, some passages whereof wee shall elsewhere relate. This great divine was not moved to write these things by any hatred or discontent towards the Popes, but onely by a just obligation to defend the Emperour *Ludovicus Bavarus*, who was unjustly excommunicate.

10 A little before this devine put forth that Booke, to wit, in the year 1310,

The reigning
fake of the
Popedom.
Acta Synodi
Rhemenfis.

Reformation
of the Pope re-
quired in the
12 and 13 age.

William Durant Bishop of *Menda* in *Languedoc*, being summoned by *Clement* the fifth, to the general Council at *Vienna*, to come and see what was fitting to be reformed in the Church, made a book *De Conciliis*, towards the beginning whereof he saith, *It seemes to bee a thing considerable, that it is most expedient & necessary, that before any thing else wee should proceed to the correction and reformation of such things as ought to be corrected and reformed in the Church of God, as well in the head as in the members.* And in the first Chapter of the third Book; *Certes as concerning the reformation of the Catholique Church to bring it about profitably with perseverance and effectually, it seemes expedient that it begin at the head; that is, at the holy Church of Rome, which is the head of all others.* Then hee sets downe in particular such things as stood in need of reformation, representing a good many abuses of the See of *Rome* that deserved to be corrected. But for all his learned discourse, there was nothing done about them in that Council; witness the Bishop of *Panormo* in his advise touching the Council of *Basil*. *This decree concerneth the estate generall of the Church, and the matters belong to a generall reformation, which may be hindred by a dissolution, as it was by the dissolution of the Council of Vienna.*

*Panormis de
Concilio Basil.*

11 *Nicholas* of *Pibrac*, who lived about the yeere 1290, tels strange stories both of the Pope and his Court, in his booke called *Occultus*, which I will not here insert. And he afterwards addes,

*Dites au Pape je vous prie
Que sous couleur de pieté
L'eglise abonde en Simonie;
Et y a multiplicité
De maux: que s'ils sont de duree
Nuiron à cette foy doree
Eclipseront la pureté.*

Tell the Pope, I pray, from mee,
That under colour of piety.
The Church abounds in Simony;
And such a many faults there be,
That if not mended presently,
They will eclips the purity
Of faith, that shines so gloriously.

12 *Francis Petrarch* who lived about the yeere 1370, under the Emperour *Charles* the fourth, and Pope *Gregory* the 11 reproving also an infinite number of abuses; speaking of *Rome* under the name of *Babylon*, and of his departure from thence, in the 93 Sonet he saith,

*De l'empia Babilonia; ond' è fuggita
Ogni vergogna, ond' ogni bene è fuori;
Albergo di dolor, madre d'errori,
Son fuggit'io per allungar la vita.*

From wicked *Babylon* from whence is fled
All modesty, all goodnesse banished,
Harbour of griefe, mother of errors rife,
I fled, in hopes so to prolong my life

In his 20 Epistle he styles it, *The nest of treasons, wherein the venome of all the world is hatched and brought up.*

13 *Francis*

13 *Francis Zabarel* Cardinall of *Florence*, who lived about 1400, in a tract which he writ of the Schisme a little after the first *Pisan* Councell, speaks thus concerning the reformation of the Head, which (as hee saith) must bee done in a Councell. 'These lawes are observable; insomuch that they were not well considered of by divers flatterers that would often heretofore humour the Popes, and who still perswaded them they might do what they list; yea, even that which is not lawfull, and in that respect more than God himselfe. For hence have ensued an infinite company of errours, insomuch that the Popes have usurped all the right of inferiour Churches, so that other Prelates are but cyphers; and if God do not provide for the state of the Catholique Church, it is like to goe to wrack: But by the grace of God there is some hope of reformation, if the Councell which is appointed in the Church doe indeed meet, as it is reported it shall. In which assembly order must be taken, not onely for the present schisme, but for the future also; and the power of the Pope must be so moderated, that inferiour powers bee not overthrowne; and that from henceforth the Pope may not do what he will, but what is lawfull.

Reformation of the Pope required in the 14 century.

Franciscus Zabarel in tract. de schismate pontificio.

14 At the Councell of *Constance* there were articles put up by divers Nations about the point of reformation, wherein it was demanded amongst other things, *That there might bee a reformation of the head and Court of Rome.* Whereupon was enacted this good decree; 'That the Pope whom they should create, together with the Councell; or such as should be deputed by every nation, should proceed to the reformation of the head, the members, and the Court of *Rome*, according to equity and the good government of the Church, before the breaking up of the Councell. But Pope *Martin* the fifth, being elected by them, did ease them of that trouble, putting off the reformation till another time, to the great regret of many, seeing it is ever to begin anew.

Concil. Constant. Sess. 40.

platinus Martinus 5.

15 The Cardinall of *Cambray*, who lived about 1414, and was at the Councell of *Constance*, in a certaine Treatise of his, *Of the reformation of the Church*, after he hath shewed the good that comes of the celebration and frequency of general Councells, he adds, *The second consideration is of such things as ought to be reformed in the Head of the Church; that is, concerning the state of the Pope and his Court of Rome.* And he afterwards speaks, 'of the abuses of exactions, excommunications, the multitude of Canons and decretals, presentations to benefices, elections to dignities, granting of exemptions, and many such like excesses, which (saith he) it would be too long to relate, which he desires may be reformed.

Petrus de Aliaco in tract. de reform. Eccles. c. 1.

Idem cap. 3.

16 Mr. *John Gerson* Chancelour of *Paris*, who was also at the Councell of *Constance*, in a Sermon made by him upon the voyage of the Emperour, saith, 'It is expedient to doe so now before the election of the Pope, in many things which concerne the state generall of the Church, which the Popes abuse by too much using the plenitude of their power: as in this that they will never keep any generall Councells, nor suffer inferiour Prelats to enjoy their ordinary rights; wherein they have manifestly erred without any manifest reason or convenience; sometimes disanulling the decrees of generall Councells, sometimes altering them, sometimes expounding them at their pleasure; sometimes granting priviledges and exemptions.

Joannes Gerson in sermone pro viagio Regis Romani. in 2. directione.

17 *Nicholas de Clemangis*, one of the most learned and eloquent divines of his time, who was contemporany with Mr. *Gerson*, speaks also very bitterly against the See of *Rome* in divers tracts, but especially in his booke *De ruina & reparatione Ecclesie*. I shall set downe some passages in generall terms: 'First (saith he) let us speake of the Head, upon whom all the rest depends. He afterwards addes, 'For the supreme Bishops (that I may come to them

Nicolaus de Clemangis in lib. de ruin. & reparatione Ecclesie.

Debauchment
of the Court of
Rome.

in the last place) who by how much they see themselves ranked above others in greatnesse and authority, by so much they labour the more to overthrow them, out of a domineering humour for the enlarging of their primacy and supreme power, considering that the commodities of the Bishopricke of Rome, and S. Peters patrimony which is very large and above any Kingdome, (though it have beene sufficiently curtailed by their negligence) can no way suffice to maintaine the greatnesse of their state, which they have purposed to raise high enough above all the Emperours and Kings in the world, have cast themselves into those others flocks that abound in breeding, in wool, and in milke. He afterwards specifies the loosenesse, luxury, vanities, worldlines, rapines, vexations, usurpations, oppressions, and other such like vices and abuses of the Popes and their Court. In another book of his, intituled, *De lapsu & reparatione justitie*; he shewes that the Court of Rome hath infected France by comming there, specifying all the vices and blemishes which are communicated unto it, and those no small company.

Clemangius in
lib. de lapsu et
repar. just. pag.
10.

18 Lastly (saith he) there was a time when the Apostolique Bishop being vexed with the tyranny of the *Italians*, made choice of *France* for his seat, and for all the Court of *Rome*, supposing he could not finde assured refuge elsewhere: to whom I could wish the strength of *France* had never proved a staffe of a reed, as it was a long time before foretold that it should: what was it else that brought *France* upon the suddaine into these miseries, making her fall away from that eminent glory which made her flourish above al other nations, but that, degenerating from those ancient vertues which adorned her with such an excellency of honour, she is changed from valour to cowardise, from diligence to sloath, from honesty to ignominy, from gravity and constancy to a wanton lightnesse, from temperance to luxury, from courage to presumption, from liberality to covetousnesse and unrestrained spoiling, from thrift to prodigality, from trust to treachery, from piety to impiety, from order to confusion, from a solid glory to pride and vanity, from zeale of the publique good, to private gaines, from correction and discipline to a generall impunity and licence of all wickednesse and misdemeanours? and, to summe up all in a word which is proper for our present subject, from justice to injustice and all iniquity?

De hierarchia
subcoelesti lib. 14
cap. 7.

19 The author of the booke intituled *De Hierarchia subcoelesti*, who lived about the same time, under *Charles* the fifth and sixth, hath made us also an inventory of the abuses, deformities, and debauchments of the Court of *Rome*, which (as he saith) crept into it for the most part after *Clement* the fifth. *Celestine* the fifth (as the story goes) seeing the state of the Court of *Rome* even then disorderly and corrupted, retired himselfe of his owne accord, and renounced the Popedom: and although it be said that he was cheated by *Boniface* the eighth his successor (of whom it is said that hee entred like a Fox, and reigned like a Lyon) yet the same *Celestine* was moved so to doe, rather out of a desire of avoiding pomp, and enjoying the embraces of his *Rachel*. *Benet*, who was of the order of the Predicants, succeeded *Boniface*, who having made peace with the King of *France*, with whom his predecessors were at odds, he undertooke to reforme the Church, but hee could not goe through with it, being he lived not a whole yeere. After him there was a Pope chosen by the name of *Clement* the fifth, an Archbishop of *Bourdeaux* in *France*, under whom all the Canons, the Customes Ecclesiasticall, and other vertues did utterly perish, their gallantry was increased, Simony flourished, avarice sprung up, pride and pleasure waxed hot, they gave themselves up to the delicacies of the palat; a puddle of luxuries did overflow all, and was poured downe upon the Clergy. Was not all the Church afterwards made tributary? Consider the pecuniary tythes, the slaughter-houses, the procurations in
absence,

absence, the unjust reservations of all dignities, the bestowing of benefices put all into one mans hand, the exemptions which are as it were the maimes of all the members of the Church, the plenary indulgence of all finnes granted to rich men. Consider also the presenting of insufficient men to Bishops, riches, and the commutation of all offences into pecuniary mulcts.

The reformation of the Pope ever desired, never effected.

20 John Duke of Bourges in an Epistle which he sent to Pope Innocent the seventh, amongst other things tells him, ' That in Peters case the Sun of righteousness was wont to rise, and the fruitfull earth brought forth fruit of the purity of the divine seed a hundred fold: that there the authority of the Fathers remained entire and incorrupted, whereas now we see a head faint, a heart sicke, and scarce ought sound from the sole of the foot to the top of the head. And he had said before, ' That ambition the fountaine of other vices, is now growing in the Church of Rome, and that it spreads abroad monstrous and abominable vices over all the earth, like branches of a greene stock.

Epistola Joannis quondam Regis Francorum filii Biturigum Ducis ad Innocentium 7. super facto unionis Ecclesie habetur in libro de hierarchia Subcelesti.

21 Afterwards the Councell of Basil was called; many good decrees were there made: there the Popes, who had now reered their power too high, were brought under the yoke of a Councell; there their enterprises were rephended, their power bounded and regulated. Hearke what Sylvius saith: How that decree was necessary to curbe the ambition of the Popes of Rome, who thrusting up themselves above the Catholique Church, thought it was lawfull for them to doe what they list, and a little to divert the thoughts of the Popes from the care of temporall matters, considering that they never thought of spirituall. But when all came to all, this was to no purpose: for the Popes hold that Councell to be apocryphall, yea hereticall; they condemned it in the Lateran, for as much as concernes them; so that wee are to beginne againe. Whereupon it was expedient to call yet for a reformation of the Head. Besides what wee have elsewhere spoken of the Councell of Basil, we will here set down the testimony of Gregory Haynbourg a German Lawyer, who lived at that time. The Councell of Basil endeavouring to abolish and reforme that, and desiring to reduce the present Vicar of Christ to some forme which come under the life of Christ, hath bin lected hithertowards; for in the prosecution of that reformation which was begun, so soon as it touched upon the Court of Rome, there was such a storm raised against it, that the ship of Peter seems buried in the waves, where it swims, being it cannot sink.

Æneas Sylvius de Concilio Bas. lib. 1. in fine.

Gregorius Haynbourg. in tract. de refut. primatus Petri.

22 Nicholas Cusan Cardinall of St. Peter ad vincula, who writ not long after the Councell of Basil, in his bookes De Concordia Catholica, saith, The power of the Bishop of Rome ought to be handled in the first place, because (as Gregory saith) in a Councell where they medle with reformation, they must begin at the head. And afterwards he saith, That when the head is sicke all the members are sensible of it, and that the health of inferiours depends upon the soundnesse of those that are set over them; and that there cannot bee a greater enormity than when bee who thinkes every thing lawfull for him in regard of his uncontrouled power, invades the right of those that are under him.

Cusanus lib. 2. Cap. 27.

23 James de Paradise, of Chartres, who writ also a little after the Councell of Basil, in his booke De septem statibus Ecclesie, saith: Seeing then wee hold it possible to proceed to a reformation as well of the head as the members, by such as have authority and presidency both spirituall and temporall, it must be either by one man or more. That it should be by one man, is against all reason, how eminent soever he be for his virtues, his knowledge, his worth, although hee bee renowned for his miracles, nay in my opinion not by the Pope himselfe alone. For there are so many Canons, Decretals, and Constitutions made by them already, as are good for naught but filling up parchment to no purpose, without working any reformation. Besides, seeing it is evident, nay palpable, that his owne Court stands in great need of reformation, as hath beene well knowne by the common cries of the last Generall Councells; which Court of his if hee either cannot or will

Jacobus de Paradiso in libro de septem stat. Ecclesie.

not

Reformation
of the Pope de-
sired, but not
obtained.

not reforme, which he covers under his wing, how is it credible that he should reforme the Church which is of so large an extent? Besides, it may be objected to him: Apply the salve to your owne sores first as being the head; for when that is cured, you may with lesse difficulty cure the members; wherefore Physitian heale thy self. You must first take the beam out of your owne eye, and then you may take the mote out of your brothers eye, else you will do no good by an inverted order. Unsavory salt is not good for seasoning. Wherefore by the just judgement of God his decrees are scarce well received yet, nor ever will be till he have reformed himselfe and his dependants. And in good deed I thinke the chiefe cause of the deformation of the Church is the wound in the Head, which hath need to be cured first and formost.

24 And anon after, Wherefore it seemeth to me an incredible thing that the Catholique Church should be reformed, unlesse first the Court of Rome be so; but as the world goes now, we may see how hard a thing that is. And anon after. Those which have the presidency in Councils on the Popes bebalfe, when they see that matters in the Councell make against their maisters and them, what can be expected from them, but that they will withstand the decrees of such Councils with might and maine, either by dissolving them, or sowing dissentions in them, and so the thing shall remaine unperfected, and we be driven to returne to the old wildernesse of error and ignorance? Every body knowes this to be most true, unlesse it be some one haply who is not experienced in times past. The tragedy which was acted in our age at the Councell of Basil doth sufficiently prove it, as they knew well who have laid downe the story before our eyes.

Felix Hemmer-
tin. Cantor Tu-
bicensis in tract.
de libertate Ec-
clesiastica.

25 Felix Hemmertin who lived at the same time, a great zelot of the Popes, so farre that he railes upon the Councils of Constance and Basil; yet hee thus speakes of them. I protest I will open my mouth to speake in parables, and will at first set downe such propositions as are things which we have seene and knowne, and which our forefathers have declared unto us, and which have not beene concealed by their children in another generation. Truly by reading, turning, searching, perusing, and examining all the histories, and all those that have beene versed in them, we finde that since the time of the Prince of the Apostles, through all his successours one after another, following herein those that have writ exactly of the acts and affaires of the Bishops of Rome untill this present, we never saw, heard, nor understood that greater and more notorious excesses were committed in point of avarice, ambition, oppression, cheating, cozening, naughtinesse, cruelty and severity by way of state, and under colour of mildnesse, than is now adayes committed by great and small that have any command in the house and Court of Rome.

Johannes Pe-
trus Arrinab. in
epist. ad Jaco-
bum Piccolomi-
ni Cardinalem
Papiensem pag.
75.
Ipse provocator
belli non laces-
sus fuit.

26 James Piccolomini Cardinall of Pavia, who lived in the time of Pius the second, hath inserted amongst his epistles a letter which a friend of his writ to him from Rome in this manner. Would you know what is done in the City? nothing but as it used to be, nothing but coursing, canvassing, and plotting; the saying of the Philosopher is verified, the Court is a place ordained for deceiving and being deceived mutually; the Councell seldome sits; the Pope is mightily troubled with cares, that is, with the care of that warre which he had voluntarily undertaken, as the same Epistle tels us, lest any should thinke that it was the zeale of thy house hath eaten me up.

Theodoricus d
Nibem de
Schismo. l. 2.
cap. ult.
Clementius de
ruina & re-
par. Scels.

27 In the dialogue intituled *Aureum speculum* Pape, made about two hundred yeeres agoe, wee finde this exclamation. Good God, with what danger is the ship of St. Peter tossed! the preaching of Paul is despised; the doctrine of our Saviour neglected; and in the Court of the Church of Rome (which is the head of all other Churches) there is no soundnesse from the sole of the foot to the crowne of the head. Theodorick of Nibem who was the Popes Secretary, said as much in the end of his second booke of schisme, which he writ in the yeere 1410. 'In effect there is no soundnesse in the Catholique Church even from the head to the sole of the foot. As also Nicholas Clementius in his booke Of the ruine and

and reparation of the Church, ' The saying of the Prophet is true, from the sole of the foot unto the crowne of the head there is no soundnesse in it.

28 *Baptista Mantuan* a great Devine in his time, a Frier of the order of *St Mary of Mount Carmel*, an Italian borne, who lived about 1490. hath spoken much of this subject: *Espensaus* the Devine hath stuffed ten or eleven pages with his verses, which talke of nothing more than the vices, abuses, and abominations of the Popes and their Court of Rome. I will forbear to recite them, contenting my selfe to referre the curious reader either to the author himselfe, or to him that there quotes them.

Simony practised at Rome.

Espensaus in
epist. ad Titum.
cap. 1. digress.
2. d. pag. 76. ad
89.

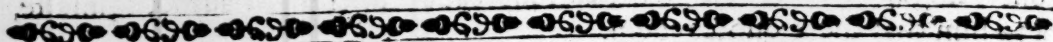
29 M^r. *John le Maire* one of our French Historians, who writ his booke of Schisme about the yeere 1500, gives us to understand that they were about this reformation in his time, without which the former Councils were to no purpose, shewing withall how necessary a thing it is. ' Every good Christian (saith hee) ought to pray God that the two last Councils of the *Gallicane* Church may engender one great universall and generall Council of all the *Latine* Church, to reforme that Church as well in the head as the members, so as those Generall Councils use to doe. And that if it be not kept at *Lions* it may be kept in some other place most expedient and necessary for the publique good: which may bee very well done at this present, considering the great peace, amity and union which is betwixt the two greatest Potentates in Christendome, the Emperour and the King, together with their third confederate in the league, the Catholique King *Ferdinand* of *Arragon*, who ought altogether to be inclined to reforme the abuses of the Church of Rome: which reformation must of necessity be made.

30 The second Council of *Pisa* was holden in the yeer, 1512, where they consulted about many good rules against the Pope: But *Julius* the second plaid them a trick, calling the Council of *Lateran*, which made, that of *Pisa* to cease, and disannulled all the decrees thereof; so that we are yet complaining against the Court of Rome. Now that it was necessary at that time to proceed to the reformation of the Head, we perceive well enough by the testimony of *Mantuan* and *John le Maire*: as also it is evident from the Acts of that Council of *Pisa*, as we have said in the fourth Chapter of the first book. This very necessity continued till the Council of *Trent*; so much we learned from Pope *Adrian* the sixth, and the relation of the delegates of *Paul* the third for matter of reformation: As also it is confirmed by *Langius* a German Monke in the Chronicle which he writ in the yeere 1520. For see here the description of a few abuses of Rome under *Leo* the tenth. The desire of money makes all things saleable at Rome; Simony is tolerated for gold; pluralities of prebends are granted in great number; all benefices and dignities of what condition soever are reserved for the Cardinals, Protonotaries, and Popes minions; graces and resignations are granted without any stint; annates, or halfe of fruits are exacted without delay: yea, not only those annates that were granted by Princes for three yeers in the time of Pope *Calixt* the third are yet in force, but are enhanced dayly; pressing and oppressing more grievously than ever. And if the Princes doe not take an order with it, all the gold and silver raked and squeezed out of Germany, will be carried to Rome at time and time, as into an holed sacke and an insatiate gulfe: the dismembring of monasteries, and chopping of Churches are allowed against all right and reason: the government and administration of Churches are not bestowed on those that deserve best, but those that bid most: the elections made by Bishops are commonly rejected, and devolved to them of Rome: great store of money is exacted and extorted for the purchase of Bishops palls, to the detriment of the Churches. At last he makes this Epilogue, By reason of the foresaid grievances, and such like as proceed from the Court of Rome, there growes nothing but ruines, destructions and miseries over all Christendome. Con-

Paulus Langius
Monachus Bo-
rariensis in
Chronico Citi-
zensi sub ann.
1513.

The Popes care
of temporals,
neglect of spi-
rituals.

clude wee then, that there was good reason why the Emperour, the King of France, and the States of Germany demanded this reformation of the Head and Court of Rome, and no reason why it was denied. This is not all; wee must now see in particular wherein this reformation consists, at least for the maine heads of it, and shew in particular the abuses that are to bee corrected, and the plaints that were put up against them.



CHAP. III.

Of the Popes too great care about temporall meanes, and of their greedinesse in getting them.



He first thing that ought to bee reformed in the Church of Rome, is the over-great care which the Popes take of temporall things now-a-daves; and the trick they have got of raking up goods, revenues, and riches together; of setting their hearts wholly upon them with an ardent and inordinate desire; yea, so far as they forget spirituall matters and

*Aeneas Sylvius
lib. 2. de Concil.
Basl.*

set light by them. *Aeneas Sylvius*, who was afterwards Pope *Pius* the second, makes the president of the Councell of *Basl* speake in this manner. *This decree was necessary to divert the minds of the Popes a little from the care of temporall things, seeing they never thought of spirituall.* He speaks of that decree whereby the Popes power was abated, and made subject to the power of a Councell. But they knew well enough how to take order with it afterwards, by meanes of the Councells of *Lateran* and *Trent*, who have given them the upper hand, and shamefully sold the liberty of the Church.

*Nicolaus Cu-
sanus lib. 3. de
Concord. Ca-
bol. c. 29.*

2 Cardinal *Cusan* speaks of this matter more at large: 'The Pope (saith he) hath hooked unto himself so much money by investitures, that they com-
' plaine generally in Germany, not that they are over-charged, but that they
' are quite broke and utterly undone: there is a raging appetite after the
' temporall meanes annexed to Churches, which possesseth the hearts of our
' ambitious Bishops now a-daves; so as wee see them commit that openly af-
' ter their promotion, which they laboured for underhand before. All the care
' is of the temporall, none of the spirituall. That was not the meaning of the
' Emperours; they never intended that the spirituals should bee swallowed up
' by the temporals, which were bestowed on Churches for their augmentati-
' on. And presently after; 'The Court ingrosseth unto it selfe all the best and
' the fattest; and that which the Empire hath set apart and ordained onely
' for the service of God and the publique good, by pretended reasons and new
' inventions is diverted another way, since lust and avarice have so seized up-
' on it, that what was Imperiall is now made Papall, and the spirituall tem-
' porall.

*Theodoricus
de Nibem. l. 3.
de schisma. c. 10.*

3 *Theodoric* of *Nibem*, in his third booke *De Schismate*; speaking of the large revenues which the Emperours had bestowed upon the Popes, saith, *What comes there of all this pompe, of so much temporall meanes, wherein the Church of Rome prides her selfe in these times, but a neglect of spirituall mat-
ters, a setting up of tyrants over them, a many divisions and schismes in that Church, and many other maladies? This is well enough knowne.*

4 Mr. *John Gerson* in his booke *De Ecclesiastica Potestate*, after he hath spo-
ken

ken of divers abuses of the Popes, he addes, *What shall we thinke is to bee said* Romish Simony. *of an infinite number of such like things that are done, casting aside all care and regard of all spirituall and divine matters which concerne the Christian faith and religion?*

5 It is a wonder to thinke whither the ardent desire of getting hath transported them: They have not spared Gods service, and all that depends upon it to attaine their ends, to become rich, and make themselves great Lords: They have spared neither Croisada's, excommunications, nor any thing that is most holy and sacred, which they have not made stales to their avarice, luxurie, and ambition, not without treason against the Divine Majesty. We speak too much hereof of our selves, although we doe not say all: let us give place to our witnesses to speake, who wee desire may beleaved, and not our bare word. In the first place let us produce those that testifie the setting to sale of spirituall and holy things, which is practised at Rome. We will marshall the Popes owne domestiques in the front. See what is said to this purpose in an addition to the Canon Law, taken out of *Johannes Andraas*, and inserted in the glosse. *The same John the Monk said, that Rome being founded by robbers, doth yet retaine her first originall, being called Roma quasi rodens manūs, because she corrodes the hands; and he added that verse,*

Vid additionem ad glos. in cap. fundamenta. in verbo gens Sancta de elect. in 6.

*Roma, manus rodit,
Quos rodere non valet odit.*

*The hands Rome grates,
Or if not so, she hates.*

The elegance of the *French* complies with the Latine. *James Fontanus* puts this other in the margent borrowed from the glossator of the Civill Law,

Fontanus in addit. margin. ad d. gloss. Vid. accurf. in l. Libertas D. de regulis juris.

*Rome is the fountaine head of avarice,
And therefore all things there are at a price.*

Gregory the thirteenth hath expunged all these additions in his new purgation of the Canon Law. It were fitting that covetousnesse were blotted out of their hearts, not their books. *Avery* of *Rosate*, an ancient commentatour of the Law, mentions the forecited verse, and puts this other to it,

Alberius in Lexico. in verbo Roma.

*Dantes custodit,
Non dantes spernit & odit.*

*The givers it protects,
The rest hates and neglects.*

5 *Aeneas Sylvius* before he was Pope, writ to a brother of his, *There is not any thing which the Court of Rome bestowes without money; even the imposition of hands, and the gifts of the Holy Ghost are set to sale there; no remission of sins but to such as have money.* Pope *Honorius* the third, in his letters to the Clergy of *England*, doth freely confesse the villanie of his Court, but to a pretty purpose I trow; mark what the *English* Monks say of it, 'And though the Popes *Nuncio* did publicquely rehearse before them all the letters wherein the same Pope did alledge the scandall and old reproach of the holy Church of *Rome*; to wit, the imputation of covetousnesse, which is the root of all evil. And mainely in this, that no man could dispatch any businesse at *Rome*, without chaffering and disbursing large summes of money, and giving of bribes.

Aeneas Sylvius epist. 66.

Marth. Paris. in Henric. 3. pag. 316.

Marth. yf. monast. l. 2. sub ann. 1226. pag. 119.

Corruptions in
the Court of
Rome.

Albertus Ar-
gentin. in Chro.
in Joan. 22.
sub anno 1334.

Jason in Lquis
Roma. 5. Scia.
nu. 16. D. ver.
obligat.
Ludovicus Co-
mes in Regal.
Cancel de valo.
exprim. in pre-
fat. pag. 451. 6
Felinus in cap.
2. colum. 8. De
rescrip.
Joannes An-
dreas Gr. p.
232.
Petrus de Fer-
rariis.

Idem Ferrar.
in form. libell.
qua uxor agit
ad dotem. in
verbo, matrimo-
nium: pag. 168.

Matth. West.
monast. l. 2. sub
anno 1181. pag.
56.

Vi. Paulum
Langium in
Chron. Citizen.
si sub ann. 1404
pag. 872.

bribes. But in as much as the poverty of Rome (said he) is the ground of this scandal and infamy, the naturall children ought to relieve the poverty of their mother. Wherefore (said he) for the utter rooting out of this scandall, we require that two prebends be allowed us out of all Churches and Abbeyes, and the meanes of one Monke out of every Covent. But the English perceiving the fallacie to be too grosse, made a mocke of that demand.

7 Wee must here relate a dream which a certaine Bishop had of the Election of Benedict the 13, and what he said unto him. He dreamed that some body appeared to him upon the night, and said, *Thou seekest the Pope; Hee is not.* And returning againe a little after said, *Wouldst thou see the Pope? This is he;* shewing him a big man whom he knew not; but being arrived at Avignon, where the See then was, just upon the poynt when they were going to the election of a Pope after the death of John the 22. Having found that Cardinal Blank was the man which was shewed unto him, he sought him out, saying unto him, *Father, you shall be Pope:* And having rehearsed his dreame unto him, he added, *He that shewed me your visage, carried me into a most filthy stable, full of dirt and dung, where I saw a coffer of most white marble quite empty; you are that coffer, which you must fill with virtue in executing this charge. O you shepheard and stable-groome, cleanse the Court and See Apostolique, which is now nought else but a filthy nasty stable of villany, covetousnesse, and Simony.*

8 One of our Law-commentators saith, *The Emperor like the Eagle leaves his prey, & does not as one insatiable set his teeth to every kind of meat: but it is other wise with the pope, who like the universe contains all things.* An officer of the court of Rome, after he hath spoken of severall taxes of the Chancery, saith, *By these upstart and unusuall exactions, is verified the saying of Alphonsus King of Arragon recorded by Antonius Panormitanus in his book of the Apothegms of Alphonsus; to wit, that the Harpies doe not live now in the Isles, but have shifted their habitation and reside in the Court of Rome.* So true they found it; that one of our greatest Canonists cites the very same. Another Canonist geeringly sayes, *The Pope is very liberall that takes a great deal of gold for a little peece of lead.* But he hit it more fitly that said, *The Pope in this had found out the Philosophers stone.* One of our ancient practitioners makes this prayer, 'That some good Emperour would stand up against those that destroyed the world anciently by their devotion, but now by their covetousnesse and rapine; who have ruined the state of the Empire, and all Lay men. And in another passage, speaking of charges, *The Pope (saith hee) hath reserved them both in this case, and many of this nature, to fill his owne purse, and his insatiate Court.* And againe he saith, 'That the ground of all avarice and ambition is in the Court of Rome, and that the Romanists doe many things against God and his laws, to their eternall disgrace, and everlasting losse of their souls.

9 An English Monke saith, that in the yeere 1181. under Alexander the 3. Prester John King of the Indies (for so he calls him) was aminded to serve the Church of Rome; 'Of which great designe there had beene a happy issue, if the fame, or rather the infamy of the Romane avarice had not defiled the whole world through all parts of the earth, which made his devotion to grow somewhat cold. Theodorick Uric a Devine of the order of the Austin Monks, in his first booke *De consolatione Ecclesie*, which hee dedicated to the Emperour Sigismond, affords us also this testimony.

*Papa stupor mundi cecidit: secumque ruere
Calica templa Dei, membra simulque caput.
Papa dolor, mundiq; pudor, per crebra patescit
Crimina seu scelera famine sonifero.
Hen, Simon regnat! per munera quæq; reguntur;*

Judiciumq;

Corruptions of
the Court of
Rome.

*Judiciumq; pium gaza nefanda erat.
Curia Papalis fovet omnia scandala mundi,
Delubra sacra facit perfiditate forum.
Ordo sacer, baptisma sacrum, cum chrismate sancto
Venduntur turpi conditione fori.
Dives honoratur, pauper contemnitur, atque
Qui dare plura valet munera, gratus erit.
Aurea qua quondam fuit, hinc argentea, Pope
Curia procedit deteriore modo.
Ferreæ dehinc factâ durâ cervice quievit
Tempore non modico, sed modò facta lutum.
Postq; lutum quid deterius solet esse? recordor
Stercus, & in tali Curia tota sedet.*

Downe goes the Pope, the wonderment of all,
With him Gods Church, the head and members fall.
The Pope, the worlds both griefe and shame, is knowne
By's many crimes, which now are famous growne.
Now who but *Simon*? bribes are all in all,
And wicked pelfe just judgement doth forestall.
The Popish Court doth foster all disgrace,
And turnes the Church into a market place.
Chrisme, Orders, Baptisme (all which holy are)
Are basely sold as at a pedling faire.
The rich is honour'd, and the poore neglected;
He that can give most shall be best respected.
The Court of *Rome*, which was of gold before
Then turn'd to silver, of a baser ore;
Next, stiffe-neck'd she, not onely for a flirt,
Grew into iron, now is turn'd to dirt.
And after dirt what worse? yet now I thinke on't,
What but? Sir reverence, all the Court doth — on't.

[All this which the authour delivers in a hobling verse, *De Ranchin* translated word for word, to keepe the closer (as he saith) to the sense. But wee have expressed it as you see.] petrarch in ep.

10 Petrarch in an Epistle of his saith, That the grim porter is appeased with gold; that heaven is opened with gold, and Christ himselte sold for money. Learned *Espensens* complaining of the connivence of the Fathers in this Councell, cites divers verses out of *Mantuan*, wherein the vices of the Court of *Rome* are represented, wherewith he hath filled divers pages; but not to swell this Treatise too big, I shall content my selfe to set downe here only this little fragment of his discourse. Whose distich is this I pray you? (saith he:)

Espensens in
comment. in epi
ad Titum, cap.
1. pag. 76. 77.

*Vivere qui cupitis sancto, discedite Roma.
Omnia cum liceant non licet esse bonum.
He that would holy be from *Rome* must hye,
All things are lawfull there but honesty.*

Surely it is not onely a Poets, but a Philosophers, yea a Divines, yea a Monkes, and that an *Italians*, namely *Mantuan*: the very same is urged also by *Clenard* the Devine, professor of Hebrew at *Lovaine*, at *Paris*, in *Portugall*: yea more, this *Clenard* is a man who was nothing lesse than a *Lutheran*, hath ventured to expresse the same in epist. this other distich.

Popish exactions.

*Quisquis opes sacras nummo reperire profano
Querit, eat Romam, sacra sunt vanalia Roma.*

He that would purchase sacred wealth with gold,
Get him to Rome, there sacred things are sold.

He cites these verses also out of the same Author.

-----*Vanalia nobis
Templa, sacerdotes, altaria, sacra, corona,
Ignes, thura, preces, cælum est vanale, Deusq.*

We sell the temples, altars, priests, and all,
Incense and fires, which we most sacred call,
Crownes, vows, and zealous prayers, we spare them not,
Heaven with his lights, and God himselfe to boot.

Mantuan lib. 3.
de calamit. temporum.

The same Doctour addes, *O that our holy Father Pope Pius the 5. would understand thus much, and at my request now at last take notice of it. I know not whether his immediate predecessor Sixtus the fourth ever heard of it, but I am sure he took no order for it. All this was spoken and published since the Councell of Trent, and therefore so much the more remarkable.*



CHAP. IV.

Of the meanes which the Popes used to enrich themselves by, and first of Taxes.

Claudian Espensaus in comment. in epist. ad Tit. cap. 11. digress. 2.

1



Now they served themselves of divers meanes and instruments to compass these riches. Doctor *Espensaus* sets downe a list of the many trickes and devices of the Court and Chancery of Rome, invented meerly for catching of mony; where he puts in among the rest expectative graces, or reversiones; howbeit this was after the Councell: knowing very well that the reformation made in that regard did not binde the Pope. 'Now (saith he) to omit Annates, under what colour or pretence soever they be demanded, which were condemned as Simony in the 21. Session of the Councell of *Basil*, what shift can wee use to excuse from dishonest and filthy lucre those things which they call graces expectative, secret reservations, bestowing of Benefices upon the first commer, uniting of many benefices to one Chappell, Prebend, or other Benefice; mandates, preventions, propinations, small or ordinary services, conditionall resignations, detaining of all the revenue in lieu of pension, and a number of such like things which were not heard of for a long time in the Church, and which would bee strange newes to *Peter* and *Paul*, if they should come into the world againe. This is no more yet than what the latter of them foretold, that they should buy and sell us with feigned words, by reason of their covetousnesse, such and so excessive are these abuses, that not so much as their owne glossers but speake against them. For the Commentator upon the rules of *Innocent* the eighth, sometimes stiles the Chamber Apostolique the money-mother; sometimes with *Jugurtha* in *Salust*,

2 Pet. 2.

Reg. 8. 47. 66.

* *Salust*, he confesseth that all things are saleable at *Rome*; sometimes he doth
 * not conceale divers things either appointed or granted for the getting in of
 * money by hook or crook: according to what was observed by *Joannes An-*
 * *dreas in cap. Sedes. In Rescriptis.* And his holynesse great liberality in giving
 * lead, and taking gold, which *Mantuan* speaks of, is publickely knowne e-
 * ven to children without any contradiction.

Exactions for
pardons and
excommunica-
tions.

Eclog. 5. & 6.

*Siquid Roma dabit, nugas dabit, accipit aurum
 Verba dat: heu! Romæ nunc sola pecunia regnat.
 Hoc est Roma viris, avibus quod noctua.*

If *Rome* give ought, 'tis nought: She takes your ware,
 And gives you words. Alas! there's none reignes there
 But Lady money now. And as the Owle's
 To other birds, so *Rome* to simple soules.

2 This learned devine hath spoken much of these things, yet withall hee
 hath omitted more; as we shall also doe, referring those that desire further
 information herein to the booke intituled *Taxa Cancellaria Apostolica*, printed
 at *Paris* by *Toussaint Denis* the yeere 1520. And yet this is nothing in com-
 parison of the penitentiary tax, printed with the same booke, where every sin,
 every crime, how heynous so ever, hath his price set; so that to have a licence
 and impunity for sinning, there needs no more but to be rich; to have a pas-
 port to *Paradise*, both for a mans selfe and his misdeeds. But (that which might
 make *Rome* blush if there were any shame in her brow) these pardons
 and indulgences are denyed to the poore and indigent, who are not of meanes
 sufficient to raise these criminall and incestuous impositions. It was not enough
 to exclude them indeed, but they must specifie so much in downright termes,
 for feare least some body might presume of some favour or exemption herein.
 For in the second Tax marked B. under the title *De rebus matrimonialibus*,
 it is said, 'The dispensation for contracting within spirituall kindred. g. LX.
 'The same judgement serves for the second degree, for which the Ditary must
 'be compounded with, for some great summe, sometimes three hundred, some-
 'times six hundred, or otherwise according to the quality of the person. And
 'mark it well, that such graces and dispensations as these, are never granted
 'to poore men.

3 So that we live not in those dayes when it was more hard for a rich man
 to enter into the Kingdome of heaven, than for a † cable to goe through the
 eye of a needle; for now the Kingdome of Heaven belongs to them, and not
 to those beggarly creatures that have nothing but a staffe and a waller. Wee
 might here alledge many testimonies concerning this subject, to evince this a-
 buse; but because it is too apparant, wee will content our selves with setting
 downe the complaint which the same *Espensaw* makes hereof, after the Coun-
 cell was done; that so every man may perceive that those abuses were not ta-
 ken order with, but are now more frequent than ever they were.

† Camell.

4 'There is a booke publickely set to every mans view (saith hee) which
 'sells as well now as ever, intituled, *Taxa Cancellaria Apostolica*, which is pro-
 'moted and set out for gaine, like a common-whore; whence more naughtines
 'is learned, than from all the Summits and summaries of all vices. There is
 'licence granted for many of them, and absolution for all; but only to such as
 'will buy them. I forbear the names, for (as one sayes) they are very feartfull
 'even the sound of them. It is strange that in these times, in this schisme, that
 'index and inventory of so many uncleane and abominable villanies, so infa-
 'mous that I am confident there is not a more scandalous book, in all *Germany*,
Switzerland,

claudius Espen-
saw in com-
ment. in epist.
ad Titum cap.
1. digress. 2.
pag. 67. et seq.

Exactions by
dispensations
and takes.

* *Switzerland*, or any other place, which hath separated from the Church of
* *Rome*, was not suppressed: Yea, it is so farre from being suppressed by the
* Treasurers of the Church of *Rome*, that the licences and impunities, for those
* so many and such horrible crimes are renewed, and for the most part confir-
* med by the faculties of the Legats, which come from thence into these quar-
* ters, with power to restore to their former estate all things that were utter-
* ly lost, and so to legitimate all bastards, whoresons, and such as were begot
* by any unlawfull conjunction, &c. to allow people marriage with such as
* they had formerly committed adultery with; to absolve such as were per-
* jured, Simoniacall, falsifiers, robbers, usurers, schismaticques, heretiques re-
* canting; Yea, and even to admit them to orders, honours, dignities, and all
* sorts of benefices; to dispense with casuall, not wilfull murtherers; howbeit
* the fore-cited Tax doth not except wilfull parricides, killers of father, mo-
* ther, brother, sister, children, or wife: sorcerers, enchanters, concubin-
* keepers, adulterers, incestuous with parents or kindred, Sodomites, sinners a-
* gainst nature, abusers of themselves with beasts, &c. O that *Rome* would
* from henceforth have some shame, and cease to set out such a shamelesse ca-
* talogue of all manner of wickednesse.

Nicolaus de Cle-
mangiis in
tract. de pra-
fulibus p. 66. 6.

5 We will here adde the complaint of *Clemangius* the devine upon this
subject: 'So the Church which Christ hath taken for his spouse, without
' wrinkle or blemish, disfigured by this horrible villany, is now the shop of all
' pride, of all tradeing, of all filching and stealing, where the Sacraments are
' hung out for a show, all the orders, even the priesthood it selfe: where fa-
' vours are sold for silver, dispensations for not preaching, licences for non-re-
' sidence: where all offices and benefices, yea, even sinnes are bought and
' sold: Lastly, where Masses and the adminitration of the Lords body are set
' to sale. Would any man have a Bishoprique? let him provide his money,
' and that no little sum, but a pretty great one for so great a Title; and let him
' not stand upon emptying his purse for the purchase of such a dignity, seeing
' he will quickly fill it againe, and that more soundly then he could do by ma-
' ny sorts of Merchandise. Doth any desire a prebend, a Provosts place, or some
' other dignity? it is no matter for knowing his deserts, his life and conver-
' sation; but so many crownes as he hath in his chest, such hopes may hee con-
' ceive of compassing his desire. For what skills it to speake of poore folkes,
' who are accounted unprofitable in all things, and unworthy of all govern-
' ment or charge; and who have no other hopes but to wax old and pine away
' in misery, dis-respected and despised. What should a poore man go to mar-
' ket for with an empty pouch, when he hath nothing to buy the wares with?

L. Plebeius. C.
Theodos. De E-
piscop. Eccles.
& Cleric.

6 The case is finely altered; the Imperiall lawes exclude rich men out of
Churches, and the Papall poor men. These last examples lead us to a third kind
of Taxes, which is raised out of Bishopriques, and other benefices; in the ca-
talogues hereof are set downe what summes of money the Pope was wont to
exact for first fruits, vacancies, or expedition. There were two of these prin-
ted among the rest, the one in *Germany*, containing the taxes of Archbishop-
riques, Bishopriques, Abbeyes, Priories, and other benefices throughout all *Chri-*
stendome: The other (which is particular to *France*, containing onely the
taxe of the Bishopriques and benefices of this Kingdome) at *Paris* by *Toussai-*
nt Denis 1517. The summes that came into the Popes coffers by this meanes
are inestimable: nothing like to this for the destruction of Kingdomes: and
yet Princes are so bewitched as to suffer it. *Boniface* the 9 was the inventour, or
at least the Promoter of it, after *John* the 22 had given a hint to it: for before
this time the world knew not what it meant. So many writers doe testifie; a-
mongst others *Langius*, *Platina*, and *Theodorick* of *Nibem*; the words of the
last are very remarkable.

Paulus Langius
in Chronico Ci-
ritenfi. sub ann.
1404.
Platina in Bo-
nifacio 9.
Theodorus d
Nibem de
schism. l. 2. c. 7.

7 About the tenth yeere of his Popedome, to goe more cunningly to worke in that matter, and palliate the Simony which he practised under some colour of necessity, he reserved to his exequerer one yeeres first-fruits of all the Cathedrall Churches and Abbeyes that were vacant; in such sort, that whosoever would bee preferred by him to any Archbishopricke, Bishopricke, or Abbey, hee was constrained first of all to pay the first-fruits of the Church or Monastery, to which hee would be sent; although perhaps he could never get possession of it, for this Boniface scarce ever thought of that: Nay, on the contrary he was wont to say, God grant he may not get possession of this Church, or that Monastery: which he therefore desired that hee might get money for it of another. Now these first-fruits were rated by him at thrice as much as those levies which were formerly made, for discharge of ordinary duties, by letters out of the Apostolicall Chamber. And, for asmuch as all those that desired to be preferred, had not alwayes so much money in their purse when they came to the Court as was needfull, Usury grew so frequent at Court in the time of this Boniface, that it was not thought to be a sinne any longer; nay, such Usury was sometime publicly required in the presence of the Judges and Officers of the same Boniface.

Of Annates or first-fruits.

Ludovicus Comes in Regat. de valor exp. prim p. 451. et in proemio. q. 13

8 He relates divers other tricks of the same Pope concerning taxes; so foule and stinking, that I will not defile this discourse with them. It will bee said that these are personall faults; so say I, but, they suited so well with his successours, that they derived them through their veines, and that with interest. I speak not onely of first-fruits, but the tricks of petty tols, graces expectative, altering the rules of Chancery, to put all in confusion, dispensations, subscriptions, and such like things, which that Historian thought horrible matters at their first beginning, but custome hath sweetened them unto us. And for annates, whereas Boniface the 9 exacted them onely of Bishopricks and Abbeyes, they brought in Priories, and other benefices in after ages: For inarke the title of those of France; Here follow the names of the Archbishops, and Bishops of the Kingdome of France, and also of all Abbeyes, Priories, and other benefices within their circuit, with the tax which is reserved upon them for the See Apostolique, when they come to bee void, and which is paid for annate, or provision. Leo the 10 extended this tax to pensions also, as is testified by a Doctor of the Canon Law. This was the custome (saith he) till the time of Leo the tenth, what time it was ordained, that annates should be payed out of pensions also, if they amounted to twelve ducats of Gold in the Popes booke. This tax was further enhanced by his successours, and made farre more heavie than before, at it is affirmed in the 77 Article of the remonstrance of the Court of Parliament, made to King Lewes the eleventh.

Hieron. Gigas in tract. de pension. q. 25. num. 3

9 Item, it is to be considered, that though the exactions were excessive, both in the vacancies, and otherwise, then when these constitutions were made: Yet after the repealing of them, in the time of Pope Pius, and at this present they are more excessive by halfe: For then in case of vacancy, they payed but ad volorem taxæ, reduced ad mediam taxæ; but after that repeal ordinarily there was more exacted in the vacancy, than the whole taxæ came to as sometimes a whole yeeres value of benefices, sometimes two. Insomuch that some pawned their Buls to the usurers, as the Abbey of Bernay by name, because two hundred ducates were demanded, whereas the Abbey was not worth two hundred: and nine hundred for St. Pharon of Meaux: So likewise of graces expectative, they tooke two parts or the thirds, and more than ever was accustomed.

Remonstrance of the Parliament of Paris Art. 77.

10 This open Simony, like a poyson which hath gotten to the heart, hath occasioned many complaints and groanes. Marsilius of Padua, saith; By the same power he reserves unto himselfe the rent and revenues in all places whatsoever, of all benefices for the first yeer of their vacancy, ingrossing to himself by that means all the treasures in the world, wiping all Kingdomes and provinces of them.

Marsilius Paduanus in 2 part. def. pacis cap. 24. p. 361.

Of Popish Symony tasks, and first fruits.

Gutielm. Durand. in tract. De modo Celebrationis Concilii gener. part. 2. At. 20.

Joannes Andreas in Ca. in ter. cetera de offic. ordinar. Ext. quem citat Guynnerin prag. Sanct. tit. De Annatis in verbo Annata. Nicolaus Cusanus lib. 2. de Conc. Cath. c. 30

Clemangius de ruina & repar. Ecclesie:

Cosmo. Guynnerin in Pragmat. Sanct. de annatis in verbo annata pag. 193 6. Theodoricus de Nibem in notis ad tra. 7. de privilegiis et jur. imp.

11 The Bishop of *Menda*, in the reformation which he proposed to the Councell of *Vienna*, saith, *The Court of Rome, and the Colledge of Cardinals, together with the Pope, would have a certaine allowance of all Bishops that are preferred there; it seemes very requisite that this were taken order with. For this heresie doth much corrupt the Catholique Church, and the common people; and the remedies which have beene applyed hitherto are quite disrespected, inasmuch, that the contrary is usually practised in the Court of Rome, as if it were no sinne at all to commit Simony, or if it were not all one to give first, and then take, as first to take and then to give. The thing was taken into consideration at the Councell of Vienna, so as they were once advised to allow the twentieth part of all livings in Christendome, to the Pope and his Cardinals; but at last it was shifted off without resolving upon any thing. A Doctour of the Canon law, saith, it was better for that, because their covetousnesse is so insatiable, that if that had beene resolved upon, they would have taken both.*

12 Cardinall *Cusanus* desired the very same reformation at the Councell of *Basil*; *The world cryes out (saith he) of the gettings of the Court of Rome; if Simony in its kind be an heresie; then sure it is a sacriledge to oppresse inferiour Churches: If he that doth such things, according to the Apostle, be an idolater, it will be very necessary by way of reformation, to take away all these and such like gaines, especially because the Catholique Church is scandalized for this covetousnesse of her governours, and the Church of Rome more than other Churches. Wherefore it is expedient in this holy reforming Councell, to remove that especially which is so opposite to Gods Lawes, so prejudiciall to souls, and so scandalous to the whole Church, that all things be done gratis in the Church of Rome, and other Metropolitan Churches.*

13 *Nicholas Clemangius* in his booke *De ruina & reparatione Ecclesie*, saith, *The Popes, over and above the former charges, have laid other tasks upon Churches and Ecclesiasticall persons, to fortifie and maintaine their Chamber, or rather their Charybdis: For they have made a Law, that as oft as any Ecclesiasticall person dyeth, of what dignity or condition soever he bee, or exchangeth his benefice with any other whatsoever, their chamber shall receive all the fruits and revenues for the first yeere next insuing, rated at a certaine summe according to their good will and pleasure. Which exaction, and divers others, by him reckoned up there, he blames and condemnes.*

14 The Glosser upon the pragmatique sanction, saith; *That Boniface the 9 was the first that extended the use of annates to all Churches, contrary to the equities of all Lawes, divine and humane. And he afterwards adds, What are they that give, and receive annates, but the buyers and sellers of the Temple cast forth by Christ?*

15 *Theodorick de Nibem* upon the tract *De privilegiis & juribus imperii*, saith, *There is no reason why the Pope and the Cardinals should not prefer other men to Bishopriques, Monasteries, and other Ecclesiasticall dignities gratis, and freely, without any intervention of money, promise or compact whatsoever. But if it be said that the Pope is the generall steward of all Bishopriques, Monasteries, and other Ecclesiasticall preferments, and of all the goods that be long unto them. (howbeit no such thing can be proved out of the Gospel, the holy Scripture, nor by the testimony of the Saints,) yet we must beleieve and maintain that this jurisdiction reacheth no further, than to the giving unto discreet and faithfull Popes and Cardinals, the power of disposing Ecclesiasticall benefices, dignities, and other meanes, to distribute and bestow them freely, as they have freely received them, upon serviceable and deserving men. And a little after; Besides, hence it is that they never regard the will of God, nor the benefit of the people committed to their charge, but their own gain, as many good Devines say. Hence have risen every where some great errors in Christendome, and grievous defamations against the Court of Rome; which is also drawn into an example by others.*

16 He addes yet further; *What then, if hee that hath the power of preferring make a law, (which is the case in hand) that he which will be preferred to such a dignity, shall pay before his preferment one full yeeres value of that dignity? Many great Devines are of opinion, that it is a heresie to hold and maintaine that such a law may be observed without mortall sinne; because the inferiour cannot abrogate the law of the superiour, and hee can make no such law of himselfe, how great soever his state and glory be. And anon, Whence then comes this power of making and observing this law? Ye may say that it is abusively by the divels suggestion, which haunt them that buy and sell holy Orders; which obtaine by Simony Bishopriques, Prebends, Curates, &c.*

Exactions by
Annates or
first-fruits.

Idem ibid p.
830.

17 In another place he saith thus, *Simony is alwayes excepted in the bestowing of Bishopriques, and supreme Sees; which if so, why was it brought up by the Church of Rome, and the Churchmen thereof (to wit, the Pope and the Cardinals, who were then at Avinion,) that those who should be preferred by them to any Archbishopriques, Bishopriques, or Abbeyes, should compound with the chamber Apostolique, and for the ordinary service of the Lord Cardinals? otherwise none should be preferred or created Bishop from thenceforth, unlesse hee either paid or entred bond for the payment of so much, upon most damnable forfeitures.*

Idem ibid p.
791.

18 The Authour of the booke, intituled, *De privilegiis & juribus Imperii*, which is very ancient, shewes that these annates were never exacted by the Emperours, when they bestowed investitures; and hee takes offence at the Popes using them; *We never read, (saith he) nor is it credible that the Emperour Otho did ever either demand, or receive by himselfe, or by any other, the fruits of one whole yeere; no, nor of halfe a yeere, for any Church, Monastery, or Ecclesiasticall dignity, which he bestowed upon any man for a title. Why then is the contrary pastised by some Ecclesiastiques? It is a strange thing: And perhaps by reason of the excesse herein, or because no regard is had to the ancient laudable customes, which have beene left by the holy Fathers to the Church militant, the covetousnesse of the times keeping it so close, it appears more in deed than in writing, in what sort the Catholique faith prospers by this meanes.*

Tract. de privi-
leg & juribus
Imp. p. 831.

19 Gregory of Haymburgh a German Lawyer, who lived in the time of the Councell of Basil, complains likewise of these Annates, and other exactions of the Pope upon benefices, and Ecclesiasticall preferments; *The Empire (saith he) being thus divided or vacant, they proceeded further, reserving to themselves all advowsons and dignities how Canonically soever disposed of; yea and the presentations to benefices; surcharging withall the Bishopriques, and other livings, with Annates, and other Symoniacall exactions, for investiture into those livings, that otherwise belonged to the Empire; that the Popes by this meanes might squeeze all the treasures of the world, as if they were not content to have usurped the Empire. It was one of the Articles proposed by all the Nations of Christendome at the Councell of Constance, there to bee reformed; conceived in these terms, Of Annates, and petty services. And indeed there was a mighty bickering about it betwixt the Cardinals, who opposed the proposall; and the French who did earnestly sollicite the contrary: as appeares by the answer of our French men, printed amongst the works of Nicholas de Clemangis; but at last the Cardinals, by meanes of their shiftings and put-offes, got the victory, insomuch that there was nothing done in it.*

Greg. Haymb;
in consut pri-
mat. Pap.

Concil. Const.
Sess. 40.

20 Albert Crants, a German Historian and Devine, in his book, called, *Wandalia*, speaking of a tenth which Pope Paul the second would have laid upon Germany, for making war against the Turke, saith, *That the Archbishops of the Rhene were scarce willing to give way to this imposition, because the Pope received the first fruits, which was a great pressure to Germany; and all (saith he) that the Cardinals may have to feed their beasts. Volaterranus speaking of Rome in the 30 book of his commentaries dedicated by him to Pope Julius the 2, saith,*

Albert Crant-
zius Wandal.
lib. 13. c. 5.

Volaterran.
Comment. l. 30.
Cap. quomodo
servi tractandi.

Of Annates
or first-fruits.

That livings are there bestowed for wages, and the spirituall treasure is made a merchandise.

Extat hoc Ar-
restum apud
Nic. de Cle-
mantiis p. 115.
Concil. Basl.
Sess. 21.

21 There is an arrest of the Parliament of *Paris*, dated the 11 of September 1406, wherein it is said, *That Pope Benet and his officers should from thenceforth give over and abstaine from the exaction of Annates in this Kingdome of France, and the Countrey of Daulphiny.* The Councell of *Basl*, made also a very remarkable Decree hereabout in the 21 Session; *The holy Councell ordaineth, that from this time forwards, there shall bee nothing exacted either in the Court of Rome, or else where for letters, Bulls, seals, Annates, common and petty services, first-fruits, or any other title, name, or colour whatsoever, for confirmations of elections, admissiō of requests, provisos of presentations, nor for any collation, depōsitiō, election, demand, or presentation to bee made even by Lay men. Nor for institution, installation, and investiture in Churches, (even Cathedrall and Metropolitan) Monasteries, dignities, benefices, and other Ecclesiasticall offices whatsoever: Nor for Orders, nor the sacred benediction, nor for the Pall.* This same decree was in expresse words inserted in the Pragmatique sanction, and confirmed by it. Wee may take notice by the way, of the prohibition made by the Councell, and the Pragmatique sanction against the Popes, that they should not take any thing for the mantle or Pall, which they were wont to sell to Archbishops and Metropolitans, at a good round price; as they did also afterwards notwithstanding these decrees; as appears by the complaint which *Langius* maketh against *Leo* the 10; *A great summe of money (saith he) is extorted for the purchase of Bishops Palls, to the detriment of Churches, against the constitution of the holy Councell of Basl, which ordained that nothing should bee paid for the Pall, nor for the confirmation or obtaining of other offices. But to returne to Annates.*

Paulus Langius
in *Chron. Citiz.*
sub ann. 1513.

P. Rebuffus
in *Concord.*
Rubric. de man-
dat. Apostol. §.
fin.
Et Rubric. de
Annat.
Ordinance d'
Orleans Art. 2.

22 It may seeme that the Bull of Pope *Leo* the 10, added at the end of the Concordate, and confirmed by the letters patents of King *Francis* the first, hath derogated from the Pragmatique sanction. But that Bull was never received and approved in *France*, as *M. Peter Rebuffus* doth testifie; *This constitution (saith hee) as being about a money matter, was never received by the inhabitants of this Kingdome.* Nor is it comprehended within the Concordate, nor the Kings declaration concerning it, verified in the Court of Parliament: And indeed all such Annates are expressely prohibited in the second Article of the Decree at *Orleans*; *Upon the remonstrance and request of the delegates of the said States, to the end that for the time to come no money for vacancy, nor Annate be payed for the grant of Archbishopriques, Bishopriques, Abbeyes, or other benefices that concerne the Consistory; we have determined to conferre and treat more largely hereabout, with the Commissioners of our holy Father the Pope; and in the meane time, by the advice of our Councell, and according to decrees of the sacred Synods, and ancient Statutes of the Kings our predecessours and the arrests of our Courts of Parliament; we do ordaine that all transportation of gold or silver out of our Kingdome, and all payment of money under colour of Annate, Vacance-money, or otherwise shall be left off and surcease; under paine of paying foure-fold, to all such as doe contrary to this present decree.* But afterwards the execution of this decree was suspended by the letters patents of the same Prince, dated the 10 of January 1562, procured by the earnest entreaty of the Cardinall of *Ferrara*; and Annates were tolerated in this Realme, by reason that the Pope assured the King, hee would take order for a reformation herein, as appears by the contents of the said letters: which run thus;

23 *Charles, &c. Whereas at our coming to the Crowne, at the request of the three estates of our Kingdome, holden in the City of Orleans, by the advice of the Princes of our blood, and other great and eminent persons of our privy Councell, we commanded our subiects, that they should not transport or carry any more money*

money out of our said Realme, under colour and pretence of Annates, and Vacants; and made other prohibitions concerning the obtaining of benefices by anticipation, devolution, dispensation, or such like meanes of dispatch, sent out of the Court of Rome, as is specified in the copy of the Ordinances aforesaid, in the second, fourth, and twenty second Articles: Which prohibitions were published in our Court of Parliament, and other the jurisdictions of our said Kingdome: whereof complaint and remonstrance hath beene made unto us by our dearly and welbeloved Cozen, the Cardinall of Ferrara, Legate in France, who hath entreated us to restore the things aforesaid unto that state wherein they were before the said Ordinance of Orleans: We declare, that we desire to render all honour and filial devotion to our Holy Father, and out of the great confidence we have, that his Holynesse will looke to provide, and speedily to take order, as need requires, that the matters aforesaid may be reformed, as our said Cozen, the Cardinall of Ferrara, his Legat, hath promised unto us on the behalfe of his said Holynesse, and whereof indeed he hath already made great overtures; for these causes and other considerations us thereunto moving, having a regard unto the foresaid remonstrances made unto us, with the advice of our most honoured Lady and mother the Queene, the Princes of our bloud, and our Privy Councell: we have removed and taken away, and doe hereby remove and take away the prohibitions aforesaid, and the penalties annexed, to be imposed upon the offenders against them, by our Edict and Ordinance of Orleans, and doe make void the Ordinances aforesaid, for the reasons before mentioned.

Of Annates
or first-fruits.

24 The Councell of Trent was holden at the time when this declaration was made, from which our King expected a great reformation concerning the premises, and particularly considering what assurance the Pope had given him hereof. But all in vaine. Whence it followes, that the cause of this suspension ceasing, the effect should cease likewise; and that therefore we are under the Ordinance of Orleans, which was iust and good: to the observation whereof we ought the rather to bee inclined, in as much as wee understand by the testimony of the Court of Parliament, and the accounts hereupon made by it unto Lewes the 11: that by reason of Vacancies, Expectatives, and such like meanes, there goes almost a million of crownes from hence to Rome every yeere. Which is further confirmed by the testimony of the Ambassadors of the Archbishop of Magdenburg in Germany, who was present at the Councell of Basil, who hath left upon record, that he learned from the Archbishop of Lyons, then living; that during the Popedome of Martin the fifth, who sate 14 yeeres, there were carried to Rome out of this Realme of France only, nine millions of Crownes, without reckoning what was brought in by the Clergy-men of inferiour quality.

See the remon-
strance of the
Court of Par-
liament. Artic.
68. 73, 74, 75.
76. 79, 80.
V. Sylvam. Lo-
corum Commu-
nium Henrici
Token.
Matth West. l.
2. sub ann. 1245
p. 191.
Fecit per fin-
gulos Comita-
tus Anglie in-
quiri summam
redituum
Romanorum et
inventum est
quod ad ran-
tundem pecunia
adscendisset
quantum redi-
tus ipsius. viz.
sexaginta mil-
lia marcarum
puri redditus.
Exceptis variis
emolumentis.
Matth. Paris.
sub Henrico 3.
p. 647.
Estat. de Tours.
See the extract
joyned with
the book, De
Ecclesia Galli-
cane statu in
schismate.

25 It is reported by an English Historian, that Henry the 3 King of England in the yeere 1245, caused an estimate to be taken of the pure rents which the Pope had out of his Kingdome, and that it was found they amounted to as great a summe of money, as all that he himselfe received out of his Realme, not reckoning divers other commodities beside. The like is affirmed by all England together in an epistle sent to Pope Innocent the 4. where it is said, That he received more pure rents out of England, than the King himselfe; who is the guardian of the Church, and the governour of the Kingdome. And hereupon the transporting of gold or silver to Rome was forbidden in this Kingdome by many good Statutes made at severall times. Saint Lewes, who amongst divers others made one hereabouts expressly forbidding all such exactions, was never thelesse Canonized for a Saint. King Charles the 6, Henry the 3, Charles the 9, and others, were never thought the lesse Catholique for this; nor the people of France that demanded it in their Councils of State, ever reputed the lesse zealous in Religion. For by this meanes the Popes and Cardinals would be the

Popish Simony
and exactions
by taxes.

a Theodoric.

b Nihem lib. 2.

de schism. c. 2.

c intraff. de

privileg. &

juribus Imperii

p. 829. & seq.

Marfilium Pa-

ravinum in de-

fens. Pacis

part. 2. c. 11. 24.

b Johannes de

Turrecremata

inc. Si quis pe-

cunia. nu. 4.

dist. 79.

Jacobarius l. 4.

de Concil. art. 4.

Aug. de Ancona

in lib. de potest.

Ecclesiastica.

9. 5. art. 3.

Et alii ab iis

vitati.

c Concil. dele-

torum Cardi-

nalium de e-

mendanda Ec-

cles. Pauloter-

tio jubente.

conscriptum

ann. 1538.

Exrat. tom. 3.

Conciliorum Co-

lonie. editorum

ann. 1551.

d Natalis Comes

l. 14. Historia

sui temporis.

Matth. Paris.
in hist. Angl.
sub Henrico
3. pag. 349.

more honest men ; for there is nought that spoiles them , but too much ease and wealth. And so they should both cleare themselves from that infamous crime of Simony, which all Christians detest and abhorre ; and also acquite all those that barter with them ; who, according to the opinion of Devines, and the sentence of the Parliament of *Paris*, in the 71 Article of their Remonstrance, share with them in the sinne also. For to beleve the Popes flatterers, who goe about to perswade them in their filthy writings, that though they practise Simony, yet they cannot be Simoniacall : this were to hoodwinke the eyes against all truth, and to sleep in a blind ignorance. The men who were the most eminent for learning in the time of Pope *Paul* the third ; who were bound by oath, and adjured by him, upon paine of excommunication, to tell him the truth concerning the reformation of the Church, told him plainly, amongst other things, *That it was not lawfull for the Pope and Vicar of Christ, (these are their very words) to make any gaine out of the use of the power of the Keys, committed unto him by Christ : For it is Christs command (say they) Freely yee have received, freely give.*

26 The Emperour *Ferdinand*, in his demands, put up at the Councell of *Trent*, required that the ancient Canons against Simony, might be restored. Now these ancient Canons bind the Pope, as well as other Bishops ; and you shall finde no exception for him there ; but our Councell had no leasure to thinke of this. I could here make a large discourse of the Reservations of Bishopricks, and other dignities, and benefices Ecclesiasticall : of the granting out of Graces, and the next voydancce of benefices ; of mandats of provision, and other wayes which the Popes have used and doe use to this day, to enhance their revenues. The Ordinances of our Kings, are full fraught with complaints made, concerning this particular ; as are also the works of divers authors. All those that ever medled with reformation, put alwayes up some Articles about this point : The deputies of *Paul* the third, have a whole Chapter of it in their Councell. The Councell of *Basil*, and the Pragmaticque Sanction hath condemned them : The King of *France* desired the like in his demands : Yea, and the Councell it selfe hath taken an order with them, but it is with reservation of the Popes authority above all ; which is as much as to put a gull upon all Christendome, seeing the reformation in this case was demanded onely against him, inasmuch as he is the man from whence all the disorder proceeds. And after this, all that are acquainted with the Court of *Rome*, doe very well know, and can testifie, how the Pope doth still practise these meanes, and whether all the decrees of this Councell have debarred him of dispensing his favours.

27 The Popes not content with the gold and silver which they get by these meanes, doe use taxes and tributes besides, like secular Princes, not only upon Clergy men, but Lay men also ; yea, upon whole Princes and Kingdomes. *Gregory* the 9, the yeece 1239, demanded of the Kingdome of *England*, the tenth part of all the moveable goods, as well of the Laity as Clergy, to maintaine his warre against the Emperour *Frederick*, telling them that he only had undertaken that war in behalfe of the Church Catholique. Which demand, *Henry the third*, King of *England*, (saith an *English* Monke) having passed his word to the Pope, by his officers, for the paying of those tenths, had no way to gainsay. But the Earles and Barons, and all the Laity did oppose it, refusing to engage their Baronies and demaines. As for the Bishops, Abbats, Priours, and other Prelates, after three or foure dayes consultation, they at last condescended to it, with a great deal of murmuring ; fearing the sentence of excommunication in case of refusall ; as the Monke hath it word for word. The execution whereof ensued as rigorous as ever : For one *Mr. Otho*, who was sent as Legat upon that occasion, did not spare excommunications : causing besides, certaine great summes

summes of money to be levyed for the defraying of his charges ; because (as he said in this commission) hee was not bound to make war at his owne charges. *Mean while the Legat not forgetting himselfe , did not neglect to extort both money and meanes for himselfe : for compelling every one to pay him procurations, he sent certaine rigorous injunctions, to the Bishops and Archdeacons to this effect. He afterwards demanded the fifth part of all the goods , and spirituall revenues of the Clergy men aliens , who had any preferments in England, whereof there were then good store ; and from them hee proceeded to the rest : and all to make warre against the Emperour Frederick. And whereas divers were marked out for that beyond-sea voyage , hee dispatched a pretty commission to his Legat, to absolve them of their vow , and to exact of them certaine great sums of money. All these evils were occasioned mainly by the softnesse of King Henry the third, who when it was asked by his subjects, Why he would suffer England , considering the large priviledges thereof, like a Vineyard without a wall, to ly open to the prey and desolation of passengers ; He replied, I neither will nor dare contradict the Pope in any thing.*

England oppressed by the Popes exactions.

Idem ibid. pag. 506.

Idem pag. 507.

Idem pag. 508.

28 Nor is here an end ; For about that time (saith the same Authour) there came into England a new way of exaction, most execrable, and unheard of in any age. For our holy Father the Pope, sent a certaine exacter into England, Peter Rubeus by name, who was instructed to wipe the poore English of an infinite masse of money, by a new invented mouse-trap trick. For hee came into the Chapters of the Religious, cozening, and compelling them first to promise, and then to pay, after the example of other Prelates, whom he lyngly affirmed to have payed already. For he said, Such and such a Bishop, such and such an Abbat have already freely contributed ; why doe you slowbacks delay so long, that you may loose your thanks with your courtesie ? Besides , this cheater caused them to sweare not to reveal the manner of this exaction to any, till halfe a yeere after ; like robbers, who compell those they rob, to promise that they will not speake of it. But though men should be silent, the very stones out of the Churches would cry out against such rake-hells. This fit of the fever descended like an hereditary disease upon his successors. Innocent the fourth knew well enough how to husband such a fertile field ; but so as he made all England cry out of him, who brought their complaints as far as the Councell at Lyons, in the yeere 1245, then and there demanding for justice and reliefe against these tyrannicall exactions ; and that even before the Popes nose, who was there in person ; who (as the Historians say) casting his eyes downe for shame, durst not say *mum*. And for the Councell which regarded nothing but the Popes pleasure, it was deafe on that care. The same complaint was afterwards put up in a Parliament in England by King Henry himselfe, who begun to meane himselfe ; where these Articles were exhibited amongst others : *The Kingdome of England is grieved, inasmuch as the Lord Pope is not content with the subsidy of Peter pence, but doth extort a grievous contribution of the whole Clergy of England. and intends to extort far greater yet ; and this he doth without the assent or consent of the King, against the ancient customes, liberties, and lawes of the Kingdome, and against the appeall and protestation made by the Proctours of the King and Kingdome, in the generall Councell.*

Matth. Paris. pag. 515.

Matth. Paris. sub Henrico 3. pag. 646. 648. Matth. Westmonast. l. 2 sub ann. 1245.

p. 195. Matth. Paris. in Hen. 3 pag. 677.

29 This Parliament used so much respect to the Pope, as to content themselves with sending some soothing letters to him , thinking to soften his heart with the relation of their miseries : but this was all in vaine, for the grievance grew daily greater and greater ; and indeed you may observe a new kind of extortion, whereof complaint was made to King Henry ; There were lately brought certaine letters from the See Apostolique , containing no little prejudice against the King and Kingdome ; to wit, that the Bishops should maintaine some ten men of war, well provided of horse and armour, some five, some fiftene , to send over to the

Idem Paris. in Hen. 3.

The Popes ex-
actions in Eng-
land.

Idemp. 694.

Idemp. 706.

Matth. West-
monast. l. 2 sub
ann. 1247.
pag. 222.

Matth. Paris.
p. 729.

Idemp. 683.

Idem Paris.
p. 886.

Idemp. 884.

the Pope, for the service of the Church, for the space of one whole yeere, to be paid by the Bishops of England, and employed where the Pope should thinke expedient; which Knights service is not due, save only to the King and Princes of the Realme, &c. A little after, The Pope taking courage to trample under-feet the poor English, (as the same Historian calls them) and in trampling to impoverish them, commanded the Bishops of England with more imperiousnesse than was usuall, that all the beneficed men in England, should contribute unto him; to wit, such as were resident, the third part of their goods, and the rest, halfe: adding withall, some very hard conditions. He sent to one M. John, his Legat, that if any Bishop should make dainty of paying the subsidies which he demanded under colour of exemption, that he should sesse them deeper. Another English Historian, speaks thus of this matter, By reason of these, and such like oppressions, there was a great murmuring, both amongst the Clergy and people; insomuch, that whatsoever was contributed, was given with imprecations; or to speake more properly, and not conceall the truth, with down-right cursings, putting the Pope in minde of their grievances, with a complaint proceeding from the bottome of their hearts, and setting before him their insupportable oppressions. And he afterwards addes these grievances; The Church of England is intolerably vexed with infinite charges, in the tenth of all their goods, in the hastening of relieves, in the money levied for Soldiers, in the subsidies divers times exacted by Otho the Legat, in the paying of 6000 Marks, in the twentieth part of their three yeeres revenues, in the subsidie of the Roman Empire, in the subsidie granted freely.

30 Matthew Paris sets downe an infinite company of other barbarous exactions, saying, The charges were marvelously increased, with a great deal of overplus; and flowed day by day from the Court of Rome, over the miserable Kingdome of England; besides the burthen, and unwonted slavery; insomuch, that the Bishops were debarred from the bestowing of their benefices, till they had discharged these exactions, and yet the pusillanimity of the King never contradicted it. Horrible burthens, and unheard of oppressions, did spring up daily. Wee have thought fit to insert in this booke, not all the charges, for that would be a very hard thing, nay, altogether impossible to set downe, but onely some few; to the end, that such as read them, may bee sorry for them, and pray to God that we may be one day freed from them. We should spend too much paper in setting downe all which is delivered by him at large, concerning this point; it shall suffice us to recount the proverbiall speech of that Pope; England (said he) is indeed the garden of our pleasures, an exhauſtible pit: and where there is abundance, out of much, much may bee taken. This proverb was received with all honour and reverence by his successour Alexander the fourth, who sent one M. Rustand into England, who rifled the purses of the poore Clergy-men soundly, with the aid and assistance of the Bishop of Hereford, who was licensed by the Pope to borrow money in the name of the Abbeyes, and Monasteries, and to pawne their goods for the payment thereof. Which he so effected, that the money went to the Pope, but the bond laid upon the Abbats and Priours; which they were compelled to pay, together with the costs and damages, and interests. The pretence was, that that money should be employed to the use of the Abbeyes, and Monasteries. But for feare, least the jugling should bee discovered, he tooke a course to hinder the thing from ever comming to tryall by any meanes whatsoever. An English Historian after he hath delivered this relation, addes these words, These things, and others like detestable, O shame! O grieve! did spring at that time from the sulphureous fountaine of the Church of Rome. The same M. Rustand had commission to levie the tenth of the goods in England, Scotland, and Ireland, and to raise some other great and intolerable exactions, with unjust actions, and contumelious speeches, heare what the same Authour sayes of it. At that time Rustand called all the Bishops

shops of England together at London, by virtue of the Popes authority, to hear his commission: where being met after the faculties of the said Rultand were read, he brake with them, requiring of them all an infinite summe of money, by virtue of certaine writings full of injury and injustice, which might have deeply wounded the hearts of the most patient men: if that sum had beene levied, the Church of England, yea the whole kingdome should have undergone a most base servitude, and beene throwne into an irrecoverable poverty. Afterwards he commanded his debts to be discharged by the English Clergy, writing to this or that Bishop by name to pay such a sum, excommunicating such as were refractory. There are an infinite examples of the like nature, recorded by Historians from age to age, which witnesse unto us, that this is not a fault personall, but perpetuall and Papall.

The Popes ex-
actions in
France.

Idem Paris. p.
904:

31 Nor hath England only made these complaints. France also hath divers times groaned, and appeared to bee in a kinde enslaved. Nicholas de Clemangis, a French Devine, makes a long and ample description of the taxes and subsidies of the Popes; amongst which he ranks the imposition of tenths, & divers other tributes; *What shall I say of the spoyling of Prelates? of the too too usuall tenths, and of other taxations?* And a little after, *What should I doe setting down particularly an infinite company of other tributary impositions, which are dayly exacted of the most unfortunate Clergy?* The Pragmatique of S. Lewes is very observable concerning this point; *Item, we will not in any wise, that there bee any levie or collections made of the charges and exactions of moneys, imposed by the Court of Rome, upon the Churches of our Realme, by meanes whereof, our said Realme hath beene impoverished.* Nor is it lesse considerable which Matthew Paris relates, to have happened under that Prince; *About the same time (saith hee) the Pope sent his authentique letters to all the Bishops in France, in particular by his solemne Nuncios, to the Predicants, and Minorites, intreating them that every one of them, according to his ability, would furnish him with a certaine summe of money, which hee would undoubtedly repay so soone as he begun to get breath. This coming to the Kings eare, who suspected the avarice of the Court of Rome, hee sent out prohibitions, that no Prelate of his Realme should impoverish his countrey in that kinde, upon paine of forfeiting all his goods. And so those sophisticall Legats of the Pope, upon whose shoulders this charge was laid, returned out of the Realme empty-handed, with hissings and mockings.* He means Innocent the 4, in whose time King Lewes reigned, the yeer 1247, what time this was done. This was the Pope, who so soone as he was come to Lyons to hold his Councell, wherein he excommunicated the Emperour Frederick, made such a pitifull complaint of his poverty, and the great summes of money which hee ought, that our French Prelats shifted themselves to their very shirts, to exercise their charity towards him; without sparing either gold, silver, moveables, apparell, vessels, horses, or other things; whereby hee got an inestimable treasure.

Nicolaus de
Clemangis de
ruina & re-
paratione Ec-
clesiæ p. 4.

Matth. Paris.
sub Henrico 3.

32 But the story of the Abbat of S. Dennis is memorable, who having extorted great summes of money out of his Abbey, to present unto the Pope as others did, in hopes to be made one day an Archbishop, S. Lewes the King, as Patron of that Abbey, compelled him to repay the said summe out of his owne purse. Charles the 6 in a Decree made February the 18, 1406; *They take occasion to reserve the first-fruits in the vacancies, and to extort great summes of money, whereby the kingdome is exhausted, and to thrust themselves upon the Pope-dome, for to enrich and preferre both them and theirs.* And in another Decree made the same yeere, he accounts this amongst other extortions; *Imposing tenths and other subsidies at their pleasure, without ever consulting with the rest of the Bishops about it; in the raising whereof, there is no meane observed either of justice or equity.* And in another made in March 1418. *That an infinite deale*

Matth. Paris.
in Hen. 3. p. 642

Of the Clergy
mens wils.
And of the
Stues.

Marfilus in
defens. pac. par.
2. c. 21.

of gold and silver, and rents were transborted out of the Kingdome and the Province of Dauphiny, to the prejudice of the ancient customes, and the undoing of the Realme, to the irreparable losse and damage of the Common-wealth, and the miserable desolation of the Churches, aswell such as were of royall foundation as others. We will here relate what *Marfilus* saith of tenths; So that this Bishop (speaking of the Pope) seeking to get this jurisdiction over earthly Princes, although wrongfully, by such a kind of distribution, or donation of such like temporall matters, of benefices, and tenths, (which, when I looke upon all Kingdomes at once, doe amount to an inestimable deal) hee may stir up a great deal of sedition; and indeed hath ever hithertowards so done, and doth yet, more especially in the Catholique Empire of the Romans.

Marfilus in
defens. pac.
part. 2. cap. 24.

33 The Popes do likewise claim unto themselves the spoyles and inheritance of the rest of the Clergy, & therefore have denyed them so much power as to make their wils and dispose of their owne goods. Concerning which wee have already heard the testimony of *Nicholas Clemangius*; let us now heare what *Marfilus* of Padua saith; Adde hereunto (saith he) a new branch of that root, how that the Bishop of Rome, by virtue of that plenitude of power, hath forbidden all such as have any Ecclesiasticall preferments in what place soever, to make any testament without leave from him; and hath decreed that their goods shall devolve immediatly to his See, whether they dye intestate or otherwise. Charles the 6 in an Ordinance of his, dated October 6, 1385, registred in the old booke of Ordinances, which is at the Parliament of Paris, folio 114; That our judges doe not in any case permit the goods of such as die, to bee transferred to the Pope; but to their heirs or executors, or others to whom the said goods of right appertaine. And in another of the 18 of February 1406; Certaine Collectors, and other the Pope of Romes officers particularly for his moneys, have for some yeeres of late oppressed and vexed the Church and Churchmen of our Realme and Province of Dauphiny, by an insufferable slavery, in seizing upon the goods of the Bishops and Clergy men, both Regulars and Seculars, presently upon their decease. *Matthew Paris* saith, that *Innocent* the 4 made a constitution touching this point; Hereupon he made (saith he) a new and unheard of law, that if any Clergy man from thenceforth should die intestate, his goods should be converted to the Popes use. *Matthew Westminster* confirms it; The Pope (saith he, speaking of *Innocent* the 4) reached out his hands further to get and grasp within the clutches of his covetousnesse, the goods of all such as dyed intestate, not without wrong and damage on the behalfe of Princes. And even till this day they exact and levie certaine taxes of the Stues and Courtelans, whom they tolerate by reason of that infamous gaine which they reap from thence. *Nicholas Clemangius* doth abhorre this villany; I purposely passe over those things (saith he) which it is a shame to speake; as the open toleration of whoredome for a certaine yeerely summe; and the publique permission of whores and Concubines, who are now called by a common by-name, YEERLY KINE. And thus must those verses of *Mantuan* bee understood, unlesse wee will put some mysticall sense upon them;

Math. Paris:
In Henrico. 3 p.
685.

Math West.
monast. lib. 2.
sub anno 1246.
p. 206.

Nicholas de
Clemang. in
tract. de praesul.
Simoniac. p.
670.

Baptista Man-
tuanus de Ni-
colao Tolentino.
l. 2.

—————Roma ipsa lupanar
Reddita, femineo Petri domus oblita fluxu
Ad Stygios olet usq; lares, incestat Olympum
Nidore hoc, facta est toto execrabiliorbe.

Rome now a stew's, where Peter once did dwell,
Infect with female flux, doth beastly smell
Downe to the Stygian vaults, up to the skyes;
And is growne loathsome in the whole worlds eyes.

It will not be amisse to adde in this place what the Deputies of *Paul* the third said concerning this point, in their consultation about the reformation of the Church; Besides, the whores in this City passe along the streets as honest women, and ride upon their mules, attended on the high light day by the chiefeest servants or retainers of Cardinals, and by Clergy men. Wee have not seene the like corruption in any other City save this, which is an example to others. Besides, they dwell in the fairest houses. This vile abuse ought to be corrected.

Rom. th. luxury.
V. Constitut.
deleſtorum
Cardinalium
Paulo 3.
exhibit in to. 3.
Concil. edit.
Colon ann 1551
pa. 819.

CHAP. V.

Exactions under pretence of a Holy Warre.



BVt behold a kind of sacriledge which outstrips all the rest: Namely, that they have divers times served themselves of Croysada's for the conquering of the Holy Land, or making warre againſt the *Turks*, to make a hand and scrape up money by that meanes. *Matthew Paris* relates it thus; At the same time my Lord Legat received a commission from the Pope, to wipe faithfull people of their money by another trick; in such sort, as shall appeare to the observing reader in this following script. Such and such a Bishop to our welbeloved sons, all the Archdeacons within our Dioces, greeting. We have received letters from my Lord Legat, the tenure whereof runnes thus; Otho, &c. Being given to understand, that certain English men crossed for the Holy wars, which are not of ability for that service, have recourse unto the See Apostolique to bee absolved from the vow of the crosse which they had made; having also received a commission from the supreme Bishop, not only to absolve them, but also to compell them to redeeme their vomes; being pleased herein to ease them, of some paines and charges: wherefore we command your fatherdome, by virtue of the authority committed unto us: & withall intreat you, that you cause this power of ours, granted by our holy Father the Pope, to be forthwith published throughout your Dioces, to the end that the said crosse-bearers may repaire unto us, to receive that courtesie, according to the forme prescribed unto us. Speaking of the Councell of Lyons under *Innocent* the fourth, where the Croisada for the conquering of the Holy Land was agreed upon,

Matth. paris.
in hist. Angli-
cana p. 507.

2 As for the businesse of the Crosse (saith he) there were somethings determined at the Councell, very profitably and wisely, but as soone as the contribution of money was mentioned, they contradicted the Pope openly and to his face, even because of that addition which was generally odious, That they should contribute their aid and reliefe, by the hands of such as should be appointed for the purpose by the providence Apostolique: for as much as the faithfull in the Church have very often complained, that they have beene cheated by the Court of Rome of the money which they bestowed for the maintenance of the Holy Land.

Idem paris.
p. 658.

3 A German Monke and Historian, chargeth *Leo* the tenth, with levying a great summe of money for himselfe and his Cardinals, under pretence of a warre against the *Turke*. At the same time he created (saith hee) other thirty Cardinals, of whom he received by compact fifty thousand crownes: hee had put them in some faire hopes, but being either not able or not willing to performe his promises truely out of *S. Peters* patrimony; however to stop their mouths and keepe covenants, he invented this meanes, or rather this cheat and cosenage. to

paulus Langius
in Chron. Citiz.
sub. ann. 1513.

Levies for the
holy War in
England and
France.

Guicciardine
in his thir-
teenth book of
the Wartes of
Italy.

Guilielm. Mal-
mesb. hist. An-
glic. lib. 4.
c. 2.

Matth. Paris.
hist. Anglic. in
Henrico 3. p.
884.

Idem ibid. p.
890.

send foure of his Legates into divers parts of the world, to levie a huge masse of money under pretence of a war with the Turke. And that with many indulgences, to the end that he might deal amongst those new creatures of his, the Cardinals, all the money that was collected by this device. Hee addes another trick, no lesse impious than the former; Otherwhiles (saith he) he is inforced with great greedinesse to scrape up money by hooke and crooke out of all parts of Christendome, but especially out of Germany, by means of his Commissaries sent with his indulgences, under colour of building and repairing S. Peters Church: howbeit Pope Julius his predeceffour, who begun that work with great care and magnificence, left an infinite treasure to that end. Yet the worke begunne goes but softly and slowly on: and no marvell, considering that the stones which are hewen by day, are (as it is reported) secretly carried away by night to the great Palace of the Medici at Florence, which is now a building; and the money which was collected is not bestowed upon the building, nor employed against the Infidels, but distributed amongst the Cardinals and the Popes minions. Guicciardine saith, his sifter Magdalen had a good share of it, and that it was not done in hugger mugger.

4 Besides, they served themselves of these Croisada's and indulgences to wreake their malice, or strengthen their purposes, to the disturbance and confusion of all Christendome. An English Monke of good credit, tels us how Urban the second had this bad designe, when hee caused the conquest of the Holy Land to be undertaken at the Councell of Cleremont; In the yeer of grace 1095, (saith he) Pope Urban the second, who sat in the See Apostolique, having passed the Alpes, came into France: the cause of his coming which was publickly given out, was, that being chased out of Rome by the violence of Gilbert, hee came to sollicite the Churches on this side the mountaines to assist his Holynesse: but his more private end was never given abroad; which was, that, by the advice of Boadmond, he might stir up all Europe to make war in Asia, to the end that in the generall hurlyburly of all Provinces, Urban might with ease possesse himselfe of Rome; and Boadmond of Illyrium and Macedonia, after they had consulted with such as were to assist them.

5 Alexander the fourth turned the vow of Jerusalem into a vow of Apulia, in the case of Henry the third King of England; that is a crosse of devotion into a crosse of revenge. The Pope gave his Legats power to absolve the crosse-bearing King of his vow, dispensing with him for going to Jerusalem, alwayes provided that he should goe into Apulia, to make war upon Manfred, the son of Frederick late Emperour, an arch-enemy of the Church of Rome. The English author who relates this story, complains in another place, that the tenth was granted for the reliefe of the Holy Land, and we are compelled to turne it to the aid of Apulia, against the Christians.

6 A Croisada for the conquering of the Holy Land being resolved upon at the Councell of Vienna, under Clement the fifth; Philip the Faire and his three sons, as also Edward King of England tooke up the crosse to go thither in person, with an infinite number of men besides; Then did Pope Clement (saith an old French Chronicle) grant great indulgences to such as could not goe, but on condition, that they should finde money for that use: So as he that gave a penny was to have one yeers pardon, he that gave twelve pence, twelve yeers pardon, and he that would give as much as would maintaine a man going over seas, a plenary pardon for all. And the Pope appointed certaine men whom he put in trust for the receiving of this money. A man cannot conceive the great summes of money that were given for the purchasing of these pardons for five yeeres together: And when five yeeres were gone and past, and the good men were ready to goe and performe what they had promised and vowed, the businesse was brooke off, but the Pope kept the money, the Marques his Nephew had a share of it, and the King, and other who had taken the crosse stayed here at home. The Saracens there are in
peace

peace and quietnesse, and I thinke they may yet sleepe securely.

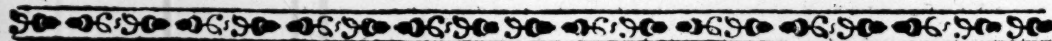
Levies for the
holy War in
spaine.

7 The same Pope Leo, whom we spoke of before, caused in his time the tenth of all Ecclesiasticall revenues to be levied in some places, under colour of defending the Christian Common-wealth against the *Turk*, but indeed to put it into his owne purse. This was the cause he found such strong opposition in *Spaine*, that it was there resolved by the Clergy Synodically assembled, that they would not pay any thing to it. The Archbishop of *Toledo* did presently interpose, and told the Pope by his Proctour, that if his meaning was to make war against the *Turk*, he should declare himselfe openly, which done they would imploy the best of their abilities, but not otherwise. Which the Pope perceiving, he disavowed the act of his Legat in *Spaine* in requiring the tenth, because (said he) he was too hasty, and it should not have been levied yet. But let us heare the *Spanish* authour himselfe tell the story. Nor did hee use lesse diligence (speaking of the Archbishop of *Toledo*) in appeasing the commotions of the Clergy which were then a foot, by reason that Pope Leo the tenth, (by authority of the Lateran Councell) required the tenth part of the commodity of their benefices of the Clergy. It was demanded under colour of defending the Christian Commonswealth; for when it was supposed that *Selim* Emperour of the *Turks*, having conquered the Sultan of *Egypt*, and put him to an ignominious death, would bend his forces against *Italy*: the Pope in the last act of the Lateran Councell, treated with the Fathers there, to have the tenth of their benefices for three yeers, to defend the sea coast, and fortifie the passage against the enemy to the utmost of his ability. This was denyed him by divers, who thought it very hard to see their livings overcharged in that kinde, contrary to the decrees of other Councels, and the constitutions of the Popes; especially seeing Christian Princes, to whom the frontiers belonged, were not mustering any armies nor made any semblance of war. The Pope on the other side maintained, that there was the like necessitie now as at the Councell of *Constance* under *Martin* the fifth. For what greater cause could there be to move them, than the preparations of the publique enemy of Christianity for the invading of *Italy* and *Rome*? The Clergy of *Aragon*, (who were emboldened by the Bishop of *Saragossa* the Kings Lievetenant there, and liberty which all in that Kingdome enjoy) at their meetings in provincially Synods, determined to deny the payment of those tenths. But forasmuch as it neerly concerned them to take the authority of the Archbishop of *Toledo* along with them, who was in great account with the Pope; aswell the Bishop of *Saragossa* as the other Bishops of *Aragon* intreated him by letters to undertake the cause of the Clergy, and that he would not suffer, being such a potent man in the Province as he was, (wherein he outwent all his Predecessours) the immunities of the Clergy to be so farre prejudiced. *Ximinius*, who had taken order that it should not be put in execution in *Castile*, answered them courteously and with all mildnesse, promising them that he would doe whatsoever lay in his power, for the preservation of their Ecclesiasticall liberty. But in the mean time he advised them to dissolve their assembly, and expect in patience what would be the event of things; that he would treat with the Pope and the Emperour *Charles* hereabout, and that he hoped the issue would be to their content. Whereupon he thought fit in the first place to acquaint the Emperour, to whom he writ his advice to this effect; That seeing the Clergy of *Aragon* had begunne to oppose by calling of Synods, that ours may have the like assemblies, to examine the grounds of these exactions, and try whether that were true which the Pope alledged or no; providing that in imitation of the Kings of *Spaine*, the Clergy did not meet to determine such controversies elsewhere than in the Kings Court. On the other side he writ to *Arteaga* his Proctour at *Rome*, to goe and greet the Pope with all reverence, and offer unto him in his name, not only the tenths of his Dioces, but even all the commodity, all the moveables of the Churches, all the gold and silver coyned or uncoyned, which could

Alvarus Gome-
cus lib. 7. de
rebus gestis
Francisci
Ximenii.

The Popish
demands de-
nied in Spaine.

be found in the Priests coffers, and the Chappels and Churches; but that he should earnestly intreat him withall, openly to declare his purpose and resolution concerning the preparation of the Holy Warre. For he would never be a meanes to make the Spanish Clergy tributary (whom hee had appeased, having been already in some commotion) without very just cause. He injoynd his Proctour also to inquire diligently, what was the determination of the Councell of Lateran concerning those tenths. Arteaga having informed the Pope of these things, together with Lawrence Putius, and Julius de Medicis, Cardinals, the Popes privado's, they made him answer in this sort; That the Pope had not as yet imposed any tenth upon the Clergy, neither by authority of the Councell nor otherwise: Nor would he impose any but in case of extremity, and when his affaires did not only require, but compell him so to doe, according to the last Decree of the Councell of Lateran. But he laid the blame upon John Ruffus, Archbishop of Cosenza the Popes Nuncio in Spaine, who had (as they said) divulged these things very indiscreetly. Wherefore the Clergy of Spaine might sleep secure for ought that concerned the paying of tenths. And there was besides a Bull of the Popes shewed to the Proctour, which was shortly to bee published, which concerned the Act of the Lateran Councell. Yet Ximenius, so soone as hee understood all these passages from Arteaga, did not let for all that to call the Clergy together, who met all at Madrid, a little before hee went to Tourverre. For Peter Martyr who was present at that Synod, as Proctour of the Church of Granada (as appears by his epistles) declares how that it was adjudged by common consent to deny that tenth; which consultation was commended by the Archbishop of Toledo, promising to patronize and defend it if need required. It is also plaine, out of the Epistles of Bembus set out under the name of Leo, that this tenth was really exacted, and that it was no flying rumour or opinion. But, as I thinke, in Italy only, or other of the Popes dominions.



CHAP. VI.

Of other demandes concerning the abuses of the Court of Rome.



Consequently to what we have already delivered in the former Chapters, concerning the greedinesse and insatiable desire of the Court of Rome, we will set downe this certaine complaints and demands exhibited by the States of Germany in this behalfe: The first whereof shall be against the proviso's and clauses made at Rome concerning all manner of benefices, to the defeating of the Patrons, both Ecclesiasticall and Lay, of their right of advowson by divers subtle fetches: And all this for the great wealth the Court of Rome gaines by this meanes, and which is brought in thither out of all the Kingdomes and Provinces in Christendome. This demand deserved to have beene well considered of, yet it was not; it is attended with many grievous complaints hereof made in divers ages. The Statutes of our Kings speake throughly of it, and amongst others, that of Charles the eighth, of the 18 of February 1406; the words whereof are these: *Some yeers agoe the Popes of Rome, in despite and contempt of the Decrees of ancient Fathers and Generall Councels, have brought all Ecclesiastical dignities, Cathedral, and Collegiate,*

giate under their disposall, and all others of greatest value next after Bishop-
riques; they have granted livings in reversion upon the Vacancie to any that
would sue for them, which hath beene an occasion for one to thirst after the death
of another: They have invented abundance of tricks, whereby they have utterly
annihilated the power and authority of the Bishops, Chapters, and Colledges; in-
somuch that there is none now that hath the power to present to a living.

Popes entrenching upon other Bishops.

2 S. Bernard toucheth this abuse to the quick, in his books *De Consideratione*, which he dedicates to Pope Eugenius; Never tell mee of the words of the Apostles, who saith, Being free, I am made the servant of all. The case is far otherwise with you: for to my knowledge there come unto you from all parts of the world, ambitious people, covetous, Symoniacall, sacrilegious, adulterous, incestuous, and such like monsters of men, to obtaine, or retaine Ecclesiasticall dignities by your Apostolicke authoritie, &c.

Bernardus Clavall lib: 1. de consider ad Eugenium.

3 The Bishop of Mende put up this abuse in the Councell of Vienna to be reformed. For after he had said that every Bishops jurisdiction ought to be preserved intire to himselfe, he addes, That Ecclesiasticall benefices which belong to the collation and disposall of Bishops are bestowed by the See Apostolicke, and others, even before they be void, and that not only in the Court of Rome, but out of it, howbeit the Bishops must give an account of the cure, and of those that execute them, whose consciences they are utterly ignorant of, in asmuch as they are none of their preferring. He would never have demanded the reformation hereof, unlesse the abuse had beene notorious.

Guil Durand: in tract de modo celebrandi Concil. gener. part. 2. tit. 7.

4 Marsilius of Padua his contemporany tels us as much; The Bishops of Rome (saith he) reserve unto their owne power immediatly the bestowing almost of al Ecclesiasticall Preferments, yea even unto the meanest & basest offices; yea of such as may agree to meere Lay men, for any thing that concernes Churches, by meanes of which reservation, they abrogate and make void all elections how legally soever they were made, though of approved and sufficient men.

Marsilius in 2. part. defens. c. 24.

5 The Cardinall of Cambray puts this also amongst those things which ought to be reformed in the Church; It is further expedient (saith he) to provide against certaine grievances which are offered to other Prelates and Churches by the Church of Rome, namely about bestowing of livings and election of dignities. Nicholas de Clemangis makes a very bitter complaint against it in his Book *De ruina & reparatione Ecclesie*, where speaking of the Popes, he saith, They have arrogated unto themselves the right of disposing of all Churches, in all places, as farre as Christian Religion reacheth, of all Bishopriques and dignities, which are conferred by election, voyding and disanulling the Decrees formerly made by the holy Fathers, with so much care and commodity, that so they may by this meanes fill their owne budgets the better. And a little after; But it may be peradventure that the Bishops of Rome tooke the creation of other Bishops, and disposall of the highest dignities in the Church into their owne hands, quite abolishing all elections, to the end that by their providence the Churches might be the better provided for, and that such governours might be set over them, as are most commendable for their life, and excellent for their learning. It might be thought that this were the reason indeed if the thing it self proclaiming the contrary, did not make it apparent, that since this custome was used, there have beene none but dunces, worldlings, money men, and such as were raised to those dignities by Simony. And againe, But to the end that the rivers of gold derived from all parts, may flow unto them in a fuller streame, they have taken away the power of presentations, and the liberty of bestowing and disposing of benefices by any meanes whatsoever, from all Diocefans and lawfull patrons: Forbidding them, upon paine of Anathema, rashly to presume (for so their writs run)

Petrus de Aliaco in lib. de reformat. Eccles. in 2. consider.

Clemangius De ruina & reparatione Ecclesie p. 1.

The Popes ingrossing of Church-livings

Gerson in de-
cla defectuum
viro-um Eccl.
c. 62.

to institute any person into any benefice within their jurisdiction, till such time as some one be presented to it, to whom by their authority they have granted it.

6 M. John Gerson in his book *De defectu virorum Ecclesiasticorum*, where he treats of the Reformation of the Church, and which he presented at the Councell of Constance, saith, *Marke what that means that now adayes Bishops, Prelates, and Parish Priests are mostly elected by the Pope; as much as to say, take an order with that abuse. The Pragmatique Sanction hath another relation much of the same straine; The Prelats and other ordinary dispensers, as also the Patrons are deprived of their right, the Hierarchy of the Church is confounded, and many other things are committed contrary to the lawes of God and man, to the losse of soules, and the oppression of the Churches of our Realme. The Councell of Basil did provide a remedy against this abuse, and the Pragmatique after it, but so as the Popes have cast off the yoke of it, having disannulled almost all the Decrees of that Councell.*

7 The States assembled in the City of *Toures* 1483, in a bill which they presented to King *Lewes* the eleventh, amongst other things, say, *That if the King doe not undertake to defend them, considering the quality of their persons, the power and authority of the Holy See Apostolique, they shall not be able to resist the usurpations and impeachments which any subject of the Realme, and others ambitious of preferment, will make against the electors, which have the right of election or ordinary donation, by censures Apostolique. And by this meanes all this Kingdome, which is already at a low ebbe, and very poore, shall bee stripped and dispoyled of that little money which remaines of the former exactions.*

8 A German^a Monke complains likewise, that under *Leo* the tenth, the elections made by Bishops were quite rejected, and the right thereof devolved to them of *Rome*. A certaine^b Cardinall complains, *That the Pope usurps all the rights of inferiour Churches, that he ingrosseth to himselfe all power and jurisdiction, making nothing, as it were, of other Bishops; which he doth not according to Saint Peters paterne. Marsilius^c saith, That the Popes arrogate unto themselves a coactive power and jurisdiction over the ministers of all Churches of the world, and that they have expressed by their decretall epistles, that the dispensing and disposing of the temporall meanes of all Clergy-men belongeth unto them, to doe with them as they list, without ever asking the consent of any Colledge or particular person, of what dignity or authority soever. The Parliament of Paris in their Remonstrance made to *Lewes* the eleventh, say, ^d *That in the time of Mounseigneur S. Lewes (these are the very words) those of Rome begunne to goe about to hinder elections, and let loose the raines to the former inconveniences; but that he by good advice and Counsell made an edict, and decree to the contrary. That is the Pragmatique^e which we have at this day entire, wherein we read amongst other Articles, ^f *Imprimis*, that the Bishops, Patrons, and ordinary doners of the Churches of our Realme, keepe their right entire, and that every mans jurisdiction be preserved. Item, that Cathedrall Churches and others of our Realme have their elections, and that they be the sole Judges of the validity of them. In another Article^g of the same remonstrance, it is said, ^h *Item*, And consequently King *Lewes Hutin* confirmed the same edict of *S. Lewes* in the yeere 1315, and that of King *Philip* the *Faire*, who had formerly made a like Decree. And afterwards King *John*, the year 1551, confirmed the said ordinance of his said Grand-Father *Philip*. All these ordinances tend to the repulsing of the usurpations of *Rome*, from which our ancestours had so much adoe to preserve themselves.**

9 The States of *Germany* complained also in the proceffe of their former grievances, that the Pope, not content to usurpe the right of another, in case of elections, and investitures, committed also another intolerable fault in con-
fering

^a paulus Lan-
gum in Chron.
Cittiz. sub ann.
1515.

^b Card. Zabarella in c. licet.
extr. de elect.

^c Marsilius Pa-
tevin. in def.

pac. part. 2. c. 22

^d Remon-
strance of the
Parliament to
Lewes the 11.

Art. 41.

^e Extat hec
pragmatica in-
ter Constitutio-
nes Regias in
magno earum
volumine.

^f Et in libello
de Statu Eccles.
Gallic. in schif-
mate p. 124.

^g Remonstrance
of the Court of
Parliament
cap. 42.

ferring benefices and Ecclesiasticall dignities upon ignorant people and strangers, respecting in his elections only his own gaines, not their persons, which were indifferent to him. We have told you already what *Clemangius* said of dunces, we will yet adde this out of him; *You have seene many, which at their comming from their studies and Schooles; nay, which is worse, from the plough, have betaken themselves to the care of the Church, and government of Parishes, and other benefices, after they had practised servile arts; which understood as little Latine as Arabick; yea, which could not read, and (which I am ashamed to speake) could not distinguish a B from a Bull-foot.* He saith as much concerning their manners, declaring how those who were preferred by the Popes, were wholly addicted to vices, and dissolutenesse of life.

Livings bestowed upon dunces or aliens.

10 *Marsilius of Padua* said as much, or more before him, *In stead of sufficient and approved men, out of the plenitude of their power, they ordaine such as are ignorant of divinity, meere idiots, and without scholarship, and oft-times debauched persons, and notorious offenders.* Charles the sixth in his ordinance of the 18 of February 1406; *And when there is any question of preferring men to elective dignities, they never used those wayes which ought to be observed, and which are appointed, to examine and try them; whence it comes to passe, that it being not possible that the Pope should know all men, and the state of the Churches; he admits divers into those dignities who are unworthy of them, and sometimes such as are unknowne to him, but by their money.* Charles the 7 in his Pragmaticque Sanction, saith, *That unworthy persons unknowne, and unexamined, are preferred by the Popes to the greatest dignities, and fattest benefices of this Kingdome.* The States of *Tours* in their complaint say, *So illiterate people, and not Ecclesiasticall, should be preferred to livings, as we have formerly seene.* Amongst the ten grievances which *Germany* presented to the Emperour *Maximilian*, to be redressed, this was one; *That at Rome the government of Churches is committed to those who are the least worthy of them, and who would bee more fit to governe and feed Mules than men.*

Marsilius Patav. in 2 part. def. pac. c. 24.

Pragmatica Sanctio Car. 7.

V. Libel. de Statu Eccl. Gallic. in schis. p. 128.

11 As for strangers preferred to benefices by the Popes, there have been alwayes great exclamations, by reason of the many evils & inconveniences which follow of it, which have beene divers times exhibited, but to no purpose. *Marsilius of Padua* urgeth this abuse, and shewes that many are elected by the Popes, who cannot communicate or talke with those who are committed to their charge; *Wherefore (saith he, speaking of John the 22) let him answer Christ, who against or after elections, made or to be made, among other monsters which he hath made, and doth yet make, hee hath created two Bishops, his owne countrey men of Languedoc, one of † Silchester in England; the other of Londres in Dacia, over those people with whom they cannot have any conference by discourse. As for their manners and learning, it concernes not me to speake of them. Let the Bishop of Rome tell mee, say I, how that shepheard shall call his own sheep by their name, as knowing their conditions by their confessions, and reprovving them? or how can the sheep follow him by hearing the voyce of his preaching and teaching?*

Marsilius Patav. in d. f. Patav. par. 2. c. 24.

† *Winchester.*

12 *M. John Gerson* in his treatise *De defectu virorum Ecclesiasticorum*, wherein he sets downe such things as ought to be reformed in the Church, puts this, *That knowne men, and such as are most fitting, be elected out of the same Countrey; that strangers in manners, Language, and education, bee not sent and set over Churches.* King Charles the 7 in his Edict the tenth of May 1431, assures us that it is a law established by his Predecessours, confirmed by the Ordinance of his deceased Father Charles the 6, intimated to the Councell of *Constance*, and Pope *Martin*. He further treats of the inconveniences and prejudices which follow upon it, when they are admitted; as, that divine service is thereby neglected, by reason of their non-residence; that the Schooles of the

Gerson in decl. de defectu virorum Eccles. c. 52.

Of preferring
strangers.

Kingdome are unprovided of Students, and left desolate ; that it is a hard case to see the noble and brave Scholars of the Realme unprovided, and strangers preferred ; that by this meanes enemies and adversaries may bee acquainted with the secrets of State, and the estate of the Land ; that strangers reape the profits, and get the honours of it.

13 Lewes the 11 in an Ordinance made 1464. speaks hereof in this sort ; *Howbeit that by privilegedges expresse, and Ordinances royall, no man can have any elective benefice within our said Kingdome, unlesse he be a native ; and that for the safety of us and our said Kingdome, and Dauphine, it concernes us much that the Bishopricks, Abbeyes, and other dignities, and elective benefices be furnished with able and knowne men, such as will comply with us, and be firme and sure for us ; especially such as hold the said benefices, and by reason of them divers places and fortresses, for which divers duties and services belong unto us from them : yet notwithstanding our late pious Father granted the said favours and patents so plentifully, and to all manner of persons of what Nation, Kingdome, or Religion soever they were without distinction, that many under shadow and pretence of these licences and patents, have insinuated and intruded themselves into the said dignities and elective benefices of our said Kingdome, and doe hold them ; howbeit many of them are strangers unknowne, and not to be trusted by us ; and such as neither can nor ought to performe those duties and services, which they are bound to doe unto us by reason of the said benefices.*

Remonstrance
of the Parlia-
ment of Paris
to Lewes the
11. chap. 53.

14 And the Court of Parliament in those Remonstrances which they made unto him, amongst other inconveniences ; which they urged would follow upon the abrogation of the Pragmaticke Sanction, say ; *By this meanes strangers would be preferred by the Pope, and not the natives of the Countrey, wherein the benefices lye ; not of the same qualisies and conditions with the Countrey : Whereupon would insue questions and controversies betwixt the Churchmen or Seculars, to the great hindrance of the salvation of soules, and irreverence of the blessed Sacraments.*

Consl. delecto-
rum Cardina-
lium. to. 3. Con-
cil. edit. Colon.
ann. 1551. pag.
819.

15 Henry the 3 in the fourth Article of the Ordinance of Blois ; *We meane not that from henceforth any shall be preferred to any Archbishopricks, Bishopricks, Abbeyes, or to be Generals of Orders, neither by death, resignation, nor otherwise, unlesse he be a naturall Frenchman ; notwithstanding any dispensation or clause derogatory to these presents which they can obtaine from us, whereto we will not have any regard to be had. The deputies of Paul the 3 touched upon this string in their reformation : That no benefices (say they) in England or Spaine, be conferred upon any Italian, nor on the contrary : Which ought to bee observed aswell in Presentations upon vacancy by death, as by resignations, wherein regard is only had to the pleasure of the resigner, and nothing else. Their Counsell did no great good, for there was nothing done in the point for all that.*

CHAP. VII.

Of suits commenced at Rome, and of the entrenching upon other Courts of Iustice, and jurisdictions.



GERMAINT complained also of suits commenced at Rome concerning benefices; which is a very usuall and ancient complaint backed with sound reasons, seeing that from hence comes the squeezing of Provinces, both of their men and money: and abundance of other evils and calamities. Charles the 6 in the Ordinance of the 18 of February 1406; They insert divers clauses in their Bults which are sometimes inextricable; they make divers rules beside the law, or else quite against law, which they revoke at their pleasure; insomuch that the most clear-sighted cannot discern who hath best right amongst divers pretenders. Hence arise infinite suits in law, which they must goe and prosecute out of the Kingdome with great expence and charges.

Of drawing
suits to Rome

2 Charles the 7 in the Ordinance made 1422; Divers of our subjects and others, by virtue of resignations, or Apostolique Bults, doe take and receive, and endeavour to get and obtaine benefices within this Realme, and take possession of them, and labour to summon, or cause to bee summoned our Laige subjects unto the Court of Rome, or before some Commissioners or Delegates appointed by our Holy Father; which is downright to oppose the rights and liberties of the Church and Clergy. Lewes the 11 in an Ordinance of the 16 of August 1471; The most of the benefices in our Kingdome are in suit; in the prosecution of which suits, a huge masse of money is strangely spent and squandered away; nor is it certainly knowne to whom the livings doe of right appertain or belong: Whereupon divine service, instruction of the people, and administration of the blessed Sacraments, are oft-times left off; and the revenue of the livings, which should have beene bestowed upon the reparations of the Churches there, is employed in charges of Law, and suits: Whereupon some great mischiefs and inconveniences have, and doe daily come to passe.

V Libel: de Statu Eccles. Gallic. in schism. p. 75.

3 Nicholas de Clemangiis, in his booke *De ruinis & reparatione Ecclesie*, after he hath spoken of the Canons and constitutions of the Popes, of the ambiguity of them, and the controversies which arise from thence, he addes; It is hard to finde any one, though he make his title to appeare as clear as the day, that goes away with a living without all dispute: For then they thinke their Court to be most flourishing and fortunate, when it rings with a multitude of causes, suits, quarrels, and wranglings, with a wild and furious noise: and on the other side to be lame, miserable and forsaken, when it wants suits and is at quiet; when the incumbents doe peaceably enjoy their right.

Nicolas de Clemangiis in *De ruina & reparatione Ecclesie* p. 5.

4 Cardinall Cusan in his booke *De concordia Catholica* saith, Wee know the great noise of suits in the Courts both Ecclesiasticall and Civill, bring much hurt to the Common-wealth, by reason the suits are so intricate and endlesse; but especially for that causes are not ended and determined in those places where they were first conceived, in their owne Countrey: but are oftentimes drawne to the Court of Rome, and that upon every triviall point that concernes benefices; whereas none but causes of importance ought to be brought thither.

Nicolas Cusanus in *De Concordia Cath.* l. 3. c. 40. p. 669.

Of drawing
suits to Rome

Remonstrance
of the Parlia-
ment Art. 60.
63, 64.

Art. 63.

5 The Parliament of *Paris* in the Remonstrance made to *Lewes* the 11, in behalfe of the liberties of the *Gallicane* Church, and for the retaining of the Pragmaticque. *Item*, in very deed, if these constitutions were not, there would not be a Clergy-man certaine of his estate. For prooffe whereof wee may remember how they of the Court of *Rome* have behaved themselves herein, after it was repealed by the King. For they not onely tooke upon them the cognizance of causes Ecclesiasticall, but also of causes concerning right of inheritance; yea and of causes royall, the cognizance whereof belongs to the King and his Court of Parliament; as hath beene seene in many particular cases, where the Court sent to the King in *Gniem*, and there the King provided for them, by remarkable Edicts, which were registred and published in the said Court. *Item*, to prove that it is a depopulation of the Kings dominions, it is certaine, that before these decrees and constitutions were made, by reason that reservations and donations in reversion were in force, and the cases tryed in the Court of *Rome*, the subjects of the Realme left their Countrey in great numbers; some to serve Cardinals, others to be officers, others wanting service spent that meanes which their parents left them to purchase some favour there, and others in great abundance to vex and trouble those that stayed at home, to get their benefices: insomuch that what by the tediousnesse and danger of the way, what by reason of the plague, which is commonly at *Rome*, the most of those that went thither dyed: and those that escaped these perils so molested with citations old feeble persons residing upon their livings, and such as were not able to defend themselves, that by reason of these vexations they shortned their dayes, and dyed sooner than they would have done by the common course of nature. *Item*, Others ambitious of preferments, exhausted the purses of their parents and friends, leaving them in extreme poverty and misery, which was sometimes a cause of shortning their dayes; and all the gaines they got was a peece of lead for gold, and when they thought to be preferred by their patents, in comes another with an annulation; and sometimes you might find ten or twelve grantees of the same benefice, and upon the controversie thence arising, all enforced to trudge to *Rome* againe to plead the case there: to the continuall vexation of the subject, and the dispeopling of the Realme.

Bernardus Ab-
bas Clarevall.
l. 1. de confid.
ad Eugen.

6 S. Bernard also exclaimes hard against these suits arising in the Court of *Rome*; for, addressing his speech to Pope *Eugenius* the 3, he saith, *What means this, I pray you, to plead from morning till night, or to hearken to those that plead? with my consent let malice bee content to take up the day; but the very nights are not free, there is scarce so much allowed to the necessity of nature, as will suffice for the repose of this poore bodie; it must rise againe for these wranglers: one day begetteth suits to another, and one night certifieth his malice to another.*

Idem Bern l. 2.
de confid. ad
Eugen.

7 In another place he complaines of the great multitude of appeals, which flow to *Rome* from all coasts of the world; *How long must it be before you awake, and consider such a mighty confusion and abuse of appeals? They are commonly practised without either right or reason; beside all order, or custome; without any distinction or difference of place, manner, time, cause, or person; they are easily admitted, and oftentimes impiously. Those that would bee wicked, were they not wont to be terrified with them? but now they, on the contrary, doe affright others, and especially honest men with them: good men are appealed by knaves to hinder them from doing good, and they give off for the awe which they beare to the voice of your thunder. Lastly, appeals are put up against Bishops, that they may not dare to dissolve or forbid marriages; appeals are put up against them to hinder them from punishing or curbing rapines, robberies, sacriledges, & such like crimes; appeals are preferred to hinder them from putting backe, or depriving unworthy*

unworthy and infamous persons of sacred offices and benefices: Which hee afterwards proves by such examples as befell in his time, which wee passe over.

Of appeals to Rome.

8 *Hildebert* Archbishop of *Tours*, exhibited the like complaint to Pope *Honorius* the second, in these words; ' We never yet heard on this side the *Alps*, nor found any such thing in the sacred Canons, that all sorts of appeals should be received in the Church of *Rome*: but if haply any such novelty bee crept in, and it be your pleasure to admit all appeals without distinction, the Papall censure will be undone by it, and the power of Ecclesiasticall discipline will be trampled under foot: for what royster will not appeal upon the least censure of an anathema? What Clerk or Priest is there, which will not defile, or indeed which will not bury himselfe in his owne excrements, upon confidence of his frustratory appeal; by virtue whereof, the Bishops cannot presently punish, I say not, all sorts of disobedience but, not any at all? The least appeals will break his staffe, rebate his constancy, quell his severity in putting him to silence, and the malefactours to an impunity of offending.

Hildebert: ep. 82.

9 They not only enervate the ordinary jurisdiction of Bishops, and other Ecclesiastiques by their appeals, but also by other wayes, without sparing of those that breathed nothing but the greatnesse of *Rome*; as amongst others, *Ivo* Bishop of *Chartres*, who after hee had done much good service to the Court of *Rome*, insomuch that he cast himselfe out of favour with his Prince, and did many ill offices to *France*, was finally compelled to make his complaint, that a cause of his depending before the Ordinary, was removed to *Rome* by an extraordinary way: And likewise that the ordinary course of justice is defeated and stopped by Apostolicall letters, and rescripts. The *German* Nation framed likewise a complaint concerning this point, and presented it to the Emperour *Maximilian*; ' The causes (say they) that might be determined in *Germany*, where there are both just and learned Judges, are removed to the Court of *Rome* without any distinction.

V. Marsil p. 354 360.

Centum Gravam. p. 26. Ivo epist. 269.

Idem epist. 291.

Fascic. rerum expetend. p. 167.

10 The Popes have likewise gone about to usurpe the Lay jurisdiction, and to draw unto them all sorts of Lay men, even in profane matters, whereof the States of *Germany* made a grievous complaint also, which we will here insert. ' Seeing that not only the grounds of equity, but also the order of things doth require, that the bounds of jurisdictions be distinct and limited, and that every Ordinary content himselfe with his owne bounds, without entrenching one upon another in the exercise of their jurisdiction; yet the Popes heretofore never considered this equity, but sleighting it, have oftentimes cited Laymen to *Rome*, and made them appeare in judgement before them; and that even in causes profane, as cases of inheritance, or mortgages, and those of the first rank: Which thing tends to the losse, dammage, and mispision, not onely of those that are summoned, but also of the states of the *Roman* Empire, and to the disgrace and infringing of its jurisdiction. Item, when any man offers to affirme upon oath at *Rome*, that he doth not expect that he can obtain justice of his competent Judge in *Germany*, he is forthwith admitted to take that oath, and letters are granted to him to set his adversary a day, and so the suit is removed from *Germany* to *Rome*, without ever any request made to the Judge, or notice given to the party. Whereupon under pretence of this oath, neither the reasons of not proceeding, nor any other proofes are admitted, although it may bee plainly convinced, that the adverse party is perjured. Which thing, if it take any deep root, and be not remedied in the beginning, all causes in fine will bee devolved to the tribunall of the Court of *Rome*, and all Ordinaries deprived of their jurisdiction, which would be both unjust and intolerable.

Centum Gravamina. c. 9. 10.

11 Wee will here set down, by way of commentarie on these Articles, the severall

Of usurping
Lay jurisdiction.

*Glos. in C. Si
Clericus de fo-
ro competenti.
Extr.*

Remonstrance
of the Court of
Parliament to
Lewes the 11.
c. 61.

*Petrus de Fer-
varis in forma
respon. in con-
vent. in verbo
Excommunica-
tio.*

*Petrus de Cu-
gueriis in arti-
culis Laicorum
c. 3.*

severall usurpations which the Popes have made upon Lay men in point of justice and jurisdiction. The Glossatour upon the Canon Law freely confesseth, *That the Pope doth daily give out writs to Clergy-men, against Layiques, in all causes whatsoever; and by this meanes getteth the jurisdiction of the other.* The Parliament of Paris urgeth this usurpation in their Remonstrances to Lewes the eleventh, *Item, the Clergy would not only be molested by citations from the Court of Rome, but the Seculars would be like the Barbour before S. Dennis of the Charter, who lost his son in the Court of Rome by the Pestilence, and the Father was afterwards summoned into the Court for his sonnes debts, as also M. John d' Argonges, the Kings Advocate. One of our old Lawyers toucheth this very usurpation, Observe (saith he, speaking of the exception in case of excommunication) that this was invented by the Pope for another reason; to wit, that his power might be therein enlarged, as well in the Civill Court, as the Ecclesiasticall, which ought rather to be restrained, than augmented; inasmuch as the psalterie doth not agree well with the Jettren.*

12 Other Prelates have done the like, after the example of their Head, witness the complaint of M. Peter de Cugneres against the Clergy of France; *Although the cognizance of Lay men belong to the Secular Judge, excepting in spirituall cases; yet the Bishops Officials cause them to be summoned before them upon the demand of the parties; and if the said Lay men decline the jurisdiction of those Officials; or those Lords whose subjects they are, require that they may be dismissed, as being their temporall Lords and Judges, the said Officials refuse to do it, and compell the parties by excommunications to proceed before them. Hee quoteth many other cases in divers Articles, which the reader may see in the Authour.*

CHAP. VIII.

Of Ecclesiasticall informations: and of the Popes Commissaries, and Legates.

He chiefe meanes whereof the Popes have served themselves against Laymen, to get the jurisdiction over them, even Kings and Princes, have beene Ecclesiasticall denuntiations: for upon complaint and information made unto them against a Layman, they would cause him to be summoned before them: namely then, when there was any oath in the businesse, or any sinne might follow upon it, which commonly fell out in all causes. And suppose all this tailed, the Plaintife needed but sweare, that hee looked for no justice from the Lay Iudge, as the articles of the States of Germany have it.

3 Wee have a pretty example in Philip Augustus King of France, who having some difference with King John of England, surnamed Lackeland, concerning the Dukedome of Guyen and Earledome of Poitiers, which Philip supposed to belong to him, because homage was not done for them; and concerning the Dukedome of Brittain, which was confiscated unto him by the murder of Arthur, King Johns Nephew, whom he had killed; hee was summoned to Rome by Innocent the third, upon the information made by John, supposing that the Pope ought to have the determining of their controversie, by reason

*cap. Novis. De
iudiciis extr.*

reason of an oath upon the setting of the lands formerly made betweene the two Kings, and the violation thereof : concerning which hee writ at large to the Bishops of *France*, that they would approve of his proceedings, which was so well liked by his successors, that they canoniz'd his Decretall, which neverthelesse hath beene disliked by some Devines. And for the Canonists, some of them have said, that the Protestation which he makes at the beginning of it, contradicts the Act it selfe ; in as much as he declareth that hee will not meddle with the jurisdiction of the Kings of *France*, which neverthelesse hee did ; for the feudall differences being determined by the Peeres of *France*, betwixt *Philip* the Lord, and *John* the Vassall, yet the Pope would have his Legats to have the cognizance of them ; for heark how he speaks, *That Philip would patiently suffer the Abbat of Casemar, and the Archbishop of Bourges to have the full hearing, whether the complaint put up against him be just, or his exception legall.* The observations of learned *Cujacius* upon that Chapter are remarkable. He protesteth (saith he) doing one thing and pretending another, not to intermeddle nor usurpe the cognizance of the sieffs belonging to the King, which he knoweth to appertaine to the King and the Peeres of *France*, but onely to have the cognizance of the perjury. And he afterwards addes ; *All this he wrote to appease the Prelates of France, and beare them in hand that he proceeded justly against their King, and put all his Kingdome in an interditt upon this occasion ; yet for all that he gained nothing by it.*

Attempts upon the Civill jurisdiction in France and England.

Gabriel Biel supra Can. Mis. se. lect 75. Hostiensis eo alii in cap. No. vit. de Judic. extra.

Cujacius in d. c. Novit. de Judic. extra.

3 In the time of Saint *Lewes* a great complaint was made against *Innocent* the fourth by the Nobility of *France*, upon occasion of such usurpations. Yea in so much that they put out a very bitter declaration, which startled him a little, as the *English* Historians doe record. Loe here a piece of it. 'All we prime men of the Kingdome, perceiving out of our deepe judgement, that the Kingdome was not got by Law written, nor by the ambition of Clergy-men, but by the sweat of warre, doe enact and ordaine by this present decree, and by joynt oath, that no Clerke nor Layman shall sue one another before the Ordinary, or Ecclesiasticall Judge, unlesse it be in case of heresie, marriages, and usury, upon paine of confiscating all their goods, and the losse of a limbe to the transgressors hereof : for which certaine executioners shall be appointed, that so our jurisdiction being resuscitated may revive againe, and those who have enriched themselves by our poverty (amongst whom God for their pride hath raised up prophane contentions) may be reduced to the state of the Primitive Church, and living in contemplation may shew us those miracles which are fled out of the world a long time agoe, and wee in the meane time lead an active life as it is fitting. The Historian addes, 'The Pope having heard these things, sighed with a troubled minde, and desiring to appease their hearts, and breake their courage, after hee had admonished them, he frighted them with threats, but he did no good for all that.

Matth. Paris. in hist. Anglor. sub Hen. 3. p. 798. Et Matth. Westmon. l. 2. sub ann. 1247.

4 The King of *England*, in imitation of our *French*, made also a Statute for the preservation of his justice. The same yeere 1247 (saith *Matthew Paris*) the King of *England* following the example of those Lords that made these Statutes in *France* which were approved and sealed by their King, to tame in part the insatiable greedinesse of the Court of *Rome*, ordain'd that these things following should be inviolably observed. To wit, that Laymen should not be convicted before an Ecclesiasticall Judge in case of perjury, or for breach of promise. *Gregory* the seventh kept a fine decorum, when after hee had deposed out of hand the Emperor *Henry* the fourth, when he was doing his penance at *Rome*, and created *Ralph* in his stead, he would afterwards be the judge of their controversy, to see whether had the wrong. A *Germane* Priest makes mention of the penance appointed to the said *Henry*, whereof wee speake in another place : he saith moreover, that in the time of the vacancy. The Pope sent a

Matth. Paris. in Hen. 3. p. 705.

Helmoldus Presbyter in Chron. Slavon. c. 28.

crowne

The Popes intermedling with Kings, Crowncs, and dignities.

crowne of gold to Ralph Duke of Suevia, accompanied with a verse which we have cut into two as good as the *Latine*.

Petra dedit Romam Petro, tibi Papa Coronam.

The Rocke gave Peter Rome in fee :
The Pope bestowes the crowne on thee.

He addes, that the Pope commanded the Archbishops of Mayence and Cullen, and other Princes and Bishops of Germany to take Ralphs part, and to make him Emperour; which was done accordingly. That the Bishop of Strasburg, the Emperours great friend, going to Rome, after hee had sought him diligently a long time through the City, and found him in the places consecrated to the Martyrs, and told him of the new election, and how much it concerned him to goe to Germany in all haste, to allisort his friends, and repell the force of his enemies, the Emperour making somewhat nice of departing without the leave of the Sea Apostolique, the Bishop enformed him that all the mischief of the treason proceeded from the Romane treachery, and that it was necessary he should flie away privily, if he would avoid being taken.

Platina in Gregorio 7.

5 The case being thus, let us now heare the narration which Gregory made hereof, in his Bull of excommunication, and his pretence for the judgement. Certaine Bishops, and Princes of Germany (saith he) having been a long time vexed by that wilde beast, instead of Henry, who fell from the Empire by reason of his offences, chose Ralph of Suevia for their head and King; who, using such modesty and sincerity as befits a King, sent his commissioners forth with unto me, to give me to understand that he undertooke the managing of the Empire against his will: That notwithstanding hee was not so desirous of reigning, but that he lov'd rather to obey us, than those who promised him the Empire: That he would be alwayes under our power and Gods; and to the intent we may be assured that he will be so, he hath promised to deliver his children unto us for hostages. From thenceforth Henry hath begunne to vex himselfe, and intreat us at first to repell Ralph from usurping the Empire, by anathema's: I replied that I would see who had the right, and that I would send my Nuncio's to examine the whole businesse, and afterwards I would judge who had the better cause.

Matth. Westmonast. lib. 2. sub ann. 1301. p. 419.

6 They have gone so farre in this point, that they have attempted to exercise jurisdiction over Kings and Princes in their owne cause; as Boniface the eighth, who having a controversie with King Edward the first of England touching the Realme of Scotland, which the Pope said belonged to the Church of Rome, he writ to him, That if he pretended any title to the Realme of Scotland, or any part thereof, he should send his Proctours and speciall Ambassadors to the See Apostolique, with all his rights and instruments belonging to that particular, there to receive full justice upon the premises. The King of England caused answer to be made unto the Pope by the chiefe Lords and Barons of his Kingdome assembled together in Parliament (as they call it) where they say concerning this point, That the Kings of England have not nor ought not to answer for the titles which they pretend to the said Kingdome, or other temporall matters, before any Iudge Ecclesiasticall or Civill, by reason of their royall dignity and prerogative, and the custome inviolably observed in all ages. Wherefore after mature deliberation and advice about the contents of your letters, the common and unanimous consent of all and every one of us was, and shall be without starting for the future, that our King ought not any way judicially to make answer before you concerning his right to the Kingdome of Scotland, or other temporals, nor in any wise submit to your sentence,

Idem Westmonast. ann. 1302. p. 436.

• sentence, or bring his right in question and dispute, or send his Proctours and
• Ambassadors before you for that purpose: and we doe not allow nor will
• in any wise allow, what we neither can nor may, that our King, (if he would)
• doe the said things which are inusuall, unlawfull, prejudiciall, and unheard
• of; nor that he goe about to doe them in any wise.

Of turning Lay
men into
Clergy men.

7 *Innocent* the fourth (saith another Historian) caused *Henry* the third
• King of *England* to be summoned before him to answer to one *David* a vas-
• fall of his, and to give him satisfaction, as hee said, for some injuries which
• hee had done him: this thing was derided and made a mocke of among
• many.

Matth. V. Vest-
monast. l. 2. sub
ann. 1146 pag.
206.

8 They have not only attempted to determine of profane matters between
Lay men; but which is more, to disannull and correct the sentences of Empe-
rours and Princes, having caused their Arrests in this kind to bee enrolled in
their books, as marks and Trophies of their victories, and to serve for perpe-
tuall presidents for the future. So *Element* the fifth cassed the sentence and
proceedings of the Emperour *Henry* the sixth, or the seventh against *Robert*
King of *Sicily*, his vassall in case of treason. Heark how he speakes of it; *We*
aswell out of the superiority, which without question, wee have over the Empire,
as out of that power, by virtue whereof we succeed the Emperour when the Empire
is vacant, but especially out of the plenitude of that power which Christ the King
of Kings, and Lord of Lords hath confer'd upon us, though unworthy, in the person
of S. Peter, with the advice of our brethren, declare and pronounce the sentence,
and all the proceedings aforesaid, together with all that followed thereupon, or from
that occasion, to be null, invalid, and without effect.

Clementin. Pa-
poratis de sen-
tent et rejudic.

9 But see the censure which a Doctour of ours passeth upon that *Clemen-*
tine; In this Chapter (saith he) there are somethings which taste a little of the
truth of law, and somethings which doe nere a whit taste of it; and herein the
Pope hath beene more partiall than Apostolicall.

Baldus in l. lib-
erti liberta
nu 18. de operi
liber.

10 Now because the Popes found some resistance now and then, when
they attempted the jurisdiction over Lay men, to make the streame of their
usurpation run more even, they begun to metamorphize Lay men into Clergy
men, or (to speake more properly) to dresse them up in a Maske, and make
them appeare such when they came to them. *Marsilius* of *Padua* hath de-
tected this policy unto us; *Boniface* the 8, (saith hee) to enhance his Secular
jurisdiction, ranked all such amongst the number of Clergy-men, as had married
a Virgin, and who contented themselves with one wife: and ordained by his De-
creets, that they should be accounted for such. And not containing themselves
within these bounds, they have exempted from all humane Civill Lawes, a com-
pany of Lay men, whom in Italy they call *Frates Gaudentes*, but elsewhere *Be-*
guins: as also the *Templars*, *Hospitallers*, and other such like Orders; together
with them that are called; *De alto passu*. And by the same reason, they might
doe so with all the rest. But if all those that be of this kinde, bee thereby exempted
from the jurisdiction of Princes, according to their Decretals; it is very probable
that most part of men will enter themselves in their societies, considering that they
receive, without any difference, as well the unlearned as learned.

Marsilius Pa-
tavin. in def.
pac. part. 2. c. 8.

11 *Mr. Peter Cugores* said the very same in his pleadings; To the end that
the Ecclesiasticall Company be enlarged, (saith hee) the Prelates make a great
many shave-pates, some infants at under age, some the children of servants, some
married men, and others insufficient. We will conclude this discourse with
the saying of *Cyprian* *Piscatoris*, one of our most ancient law commentatours,
The Popes Court would gladly have all the world in his queue, so great
is their insatiable desire of gold and silver.

Petrus de Cu-
guaris in anti-
cullis Laicorum
contra Prelatos
c. 23. p. 218.
Cyprianus Pisci-
toris in ead.
S. p. 10. de app.
Centum Gra-
vam. c. 12.

12 The States of *Germany* have made a solemn reformation in respect of the
Popes Comwallies and Delegates, which hee sends into all Provinces, and
which

Of the Popes
Commissaries
and Legats.

which are ever a meanesto augment both his power and riches. The Popes Holynesse(say they) upon the request of the Clergy, is wont to send his Commissaries and Delegate Judges through *Germany*, as Judges Ecclesiasticall, to the end that the plaintives that procure them may cause Lay men of what ranke and quality soever, to be convented before them in judgement for profane matters.

Lib de Statu Ec-
cles. Gallic. in
schismat. p. 75.

13 The Peeres of *France* complained likewise of these Commissaries and Delegates in the time of *S. Lewes*, as wee have seene proved already out of the place before cited. So *Innocent* the third delegated the Abbat of *Casemar*, and the Archbishop of *Bourges*, to judge the controversie betweene the King of *England* and *France*.

14 *Charles* the seventh speaks of these Commissaries in his Ordinance of the yeer 1422; *Divers* (saith he) doe endeavour to cite our subjects, or cause them to be cited in the Court of Rome, or before certaine Commissaries or Delegates of our Holy Father, which is directly to offend against the liberties and priviledges of the Church,

Concil. Trid.)
Sess. 25. c. 10.

15 So farre is the Councell from providing against this complaint, that poynt blank to the contrary it hath ordained certaine delegated Judges, whom it will have appointed and sent into every Diocese, to the number of foure or upwards; according to the nomination which shall be made in the Provinciaall Synod, or Councell of the Diocese, so as the names be sent to the Pope: As if there were not Judges enough already, even Ecclesiasticall, but they must needs proceed to a new creation. Which mainly concernes Kings and Princes, without whose will and consent, new Judges cannot be established within their Dominions.

Centum Grava-
mina c. 95.

16 They addressed a complaint also against the Popes Legates, which are his *Quaestors* and Treasurers, whom hee sends into the Provinces; who like those that traffique in *Peru*, bring us little guegawes, to transport our gold for them: Yea which proceed further now adayes, and embroyle themselves in making of Leagues to alter the state of Countries. The request which they made was very pertinent; namely, that it might not be lawfull for such Legates to legitimate bastards, incestuous persons, and such as were got by a damnable copulation; so as to qualifie them to inherit with other legitimate children, and make them capable of all offices and dignities.

See the Grand
Recueil des
Ordonnances de
Fontanon. tit. 4.
des Legats.
Extant. Paris
excuse la fa-
cultes, apud
Vincentium
Berrenas ann.
1561.
Espensaus in
comment. in ep.
ad Titum. c. 1.
digress. 2. p. 66.

17 This power hath beene oftentimes granted to the Legates that came into *France*, and amongst others to Cardinal *de Boissy*, who was sent hither *Ann.* 1519, in whose faculties this Article was included; The power of dispensing in default of legitimate birth for inheriting of lands. As also to the Cardinal of *Ferrara* 1561 in the 6 Article of his faculties; And likewise to legitimate all bastards of either sex, even those that are borne by unlawfull and damnable conjunction, joyntly or severally, so as they may bee admitted to their fathers inheritance, and all other goods whatsoever, whether hereditary, or emphyteutiques, without prejudice of those that should succeed the intestate, and received to all kinds of dignities, Magistracies, offices as well publique as private; and to exercise them in like manner, as if they had been truly begot in true and lawfull Matrimony; and to cleare them and take away all stain of birth, and restore them to their originall legitimate rights of nature.

18 *Espensaus* exclaims against these legitimations, and condemnes them as illegitimate; What shall wee say (saith he) of this, that by means of this money; they legitimate bastards, or such as are begotten by a damned conjunction, in unlawfull marriage against the lawes of God, the Church, and the Prince; making them capable for the administration of all places and dignities, and to share equally in the inheritance with the lawfully begotten.

ten. Hee disclaimes also divers other Articles of these kinde of faculties, as appeares by the passage which we have urged elsewhere, speaking of the penitentiary taxes of the Church of Rome. Of the faculties of the Legats.

19 This power was never more than imaginary in France; for Legates were never permitted to exercise this faculty there, as being contrary to the Lawes of the Land, and indeed heark what the Collection of the liberties of the Gallican Church saith concerning this point; 'The Pope cannot legitimate bastards and illegitimate persons, so as to make them capable of succeeding, or being succeeded by others, nor to beare office, and purchase temporall estates in this Kingdome.

Recueil des libertes de l'Eglise Gallicane
c. 14.

20 Many other abuses might be here alledged which are committed in these faculties, as they call them, & that in particular, which is so ordinary that it can never be forgotten: To derogate from all Decrees of Councils, and dispense with them, or (as others terme it) to put a dorre or obstacle before the Councell, and other Constitutions derogatory to them. Of which abuse Gerson speakes thus: It is not lawfull for the Pope to make so much adoe about these obstats which are ordain'd in Generall Councils. Cardinall Cusan in his booke *De Concordia Catholica*, makes a large Chapter of this. But we should have enough to doe if we would seeke out all the abuses and usurpations of the Court of Rome.

Nicolaus Cusanus l. 2, c. 20.

CHAP. IX.

Of the Popes usurpation of Lordships, and Kingdomes.



They have laboured hard to usurpe Lordships, Kingdomes, and Empires, insomuch that they quite forgot the care of Spiritualls. Two maine causes have moved them hereunto, Avarice and Ambition. We shall here prosecute onely so much as concernes the first, or at least as belongs jointly to both. *Marsilius* of Padua, Not content with those Temporalls, which were bestowed upon them by Princes, by reason of their insatiable appetite they have seized upon many temporall things that of right belong to the Empire, as the Cities of Romandiola, Ferrara, and Bononia, with divers other possessions, and many lands, and Lordships, then especially when the Empire was vacant.

Marsilius *Par-*
in def. pac. part.
2. c. 25.

2 *Langius* reporteth a passage out of the Chronicles of *Engelbert Westermiz*, a Clerke of *Brandenburg*, where as much is said of the City of Rome, 'The keyes whereof (saith he) were presented by the Citizens to *Innocent* the seventh, with branches of Palme trees, and the temporall dominion thereof granted unto him, but with little equity and commendation; forasmuch as the abundance of temporall things are no little impediment to spirituall; and the Pope, who is *Saint Peters* successor, ought not to take this dangerous temporall dominion upon him; for we never reade that in former times, even after the donation of *Constantine*, (in which our curious Canonists doe greatly hugge themselves) that any Pope did administer the temporall dominion of the City of Rome: but in these latter daies, and within our memorie some Popes have ventur'd to meddle with it, thereby heaping upon themselves both cares and troubles; howbeit, from all antiquity, Rome was ever the royall and imperiall City, else he that should be lawfully preferred to the Empire,

paulus Langius
in Chron. Citi-
zens. sub ann.
1405.

Popes usurpation in Rome, France, and Poland.

Can. Ergo Ludovic. dist. 63:

Franc. Guicciardine in his history of Italy 1. 4.

Matth Westmonast. l. 2. sub ann. 1301. Polydor. Virgil. l. 17. Anglie. bish.

Albertus Cranzius Wandal. l. 2. c. 37.

Platina in Clemente 4.

Albertus Cranzius Norman. l. 4. c. 16, 17. Matth. Paris. in Johan. p. 223

Verba Matthaei Westmonast. p. 92, 93.

by the Electors deputed, whosoever he were, should be vainly and idly called the King of the *Romanes*, as commonly hee is by the ancient Historians.

3 There is nothing here but very true: and yet our Popes, beside the donation of *Constantine*, have forged us another made by *Lewes the Gentle*, who bestowed upon them the City of *Rome* in expresse termes, howbeit the ancient Historians speake not a word of it, and it is plaine they never enioyed that right till within this little while, to wit, after the time of *Boniface* the ninth: who being intreated by the *Romanes* to remove his seat from *Avinion* to *Rome* for the great gaines which they presaged they should reape by the approaching yeere of Iubilee, he being arrived there, seized upon the Cittadell of the Castle of *S. Angelo*, and made himselfe master and commander of the City for him and his successors. But let us heare the testimonie of *Guicciardine* concerning this.

4 Being returned to *Rome* upon these conditions, while the *Romanes* were busie about the gaines that yeere 1400, the Pope having got the command of the City, fortified the Castle of *St. Angelo*, and bestowed a garrison in it, whose successors till *Eugenius*, although they were troubled with divers difficulties, yet having fully established their government for the future, the succeeding Popes have ruled the roast at *Rome* at their pleasure, without any contradiction.

5 But we shall speake more at large of such usurpations as these hereafter; we will onely observe, that the Popes were ever so crafty in the managing of Empires and Kingdomes, under the pretence of spirituality, as to pick out something alwaies for their owne advantage. So *Boniface* to take up the quarrell which was betwixt the King of *England* and *Scotland*, whom the other King pretended to be his vassall, came in play as to assist the *Scotch*. Affirming how that Kingdome belong'd of right to the Church of *Rome*, and that it was in his power onely to give it or take it from whom he pleased: which he affirmed so as that hee would needs bee the Judge himselfe, but hee met with a people that would not beleeeve him.

6 A certaine King of *Poland* called *Casmire*, being turned Monke, and entered into the Abbey of *Cluny* in *France*, was dispensed with for his vow by Pope *Bennet*, at the request of the *Polanders*, repenting themselves of their fault; so as he had licence both to reigne and to marry: but, for the pot of wine, It was ordained by the Pope, that the *Polanders* should pay a yeerly pension to *S. Peters Church* in *Rome*, for maintaining of candles, which is called in *Polonish*, *Snatto Petro*, that is, *S. Peters Saint*.

7 *Charles of Anjou*, brother to *S. Lewes* the King, was by *Clement* the 4, who prosecuted the designe of his predecessour *Urban* the 4, Declared King of *Jerusalem* and *Sicily* with this condition, that he should pay fourty thousand crowns yeerly to the Church of *Rome* by way of fee. Wherein two usurpations are remarkable, one in the manner of the fee which *Peter Anacleto* the anti-Pope had formerly laid upon *Sicily*: the other in the tribute, which *Clement* the fourth added de novo.

8 But there is nothing so memorable as the usurping upon the Kingdom of *England*, where excommunication was openly profaned. King *John* of *England* being at enmity with the Lords of the Land, by reason of certaine injuries pretended to be done unto them by him, was excommunicated by *Innocent* the third, the yeere 1513. This excommunication was carried from *Rome* by *Stephen* Archbishop of *Canterbury*, *William* Bishop of *London*, and *Peter* Bishop of *Ely*, who thundred it out in *France*, where that King had then certaine Barldomes and Dukedomes, after they had acquainted King *Philip Augustus* with the whole businesse. Whom those Bishops commanded, as also

all

all others for the remission of their sinnes, that invading *England* in hostile manner, they should depose King *John* from his crowne and dignity, and substitute another worthy of it, by the authority Apostolique. The King of *France* having such a wished occasion offered, made ready for warre, and mustered up an army: But in the meane time, (behold the fraud,) while the coming of the King of *France* was expected by sea, *Pandulphus* the Popes Legate, coming out of *France*, goes to King *John*, tels him: what eminent danger hee is in, shewes him how hee is utterly undone, unlesse hee shadow himselfe under the Popes wings. The King having learned from him how this protection might be, sweares upon the holy Evangelists, in the presence of the same *Pandulphus*, that hee will submit unto the judgement of the Church. Which judgement of the Church was, that this poore King should be a vassall, a slave, and tributary to the Church of *Rome*. Heare the words of the same Authour ensuing immediately after. Then hee resigned the Crowne of *England* to Pope *Innocent*, and did homage unto him, bringing a most free cuntry into bondage, to be made King of his owne Dominions, and that with a tribute, having framed an instrument hereof to be pitied and abhorred of all those that understand it.

Popes attempting upon the crowne of England.

Sententia eadem etiam apud Parisiensem.

Idem id est non p. 193.

¶ Hee that would read the Conveyance may finde it at large in the Histories of *Matthew Paris*, and *Matthew Westminster*; wee will here relate so much of it as shall serve our turne; Wee offer and give unto God, and to his blessed Apostles *Peter* and *Paul*, to our mother the holy Church of *Rome*, to Pope *Innocent* the third, and his successours, all the right of Patronage which we gave to the Church of *England*, together with the whole Realmes of *England* and *Ireland*, and all their rights and appurtenances, for the remission of our sinnes, and the sinnes of our progenitors (as well alive as dead) and receiving at this present from God and the Church of *Rome*, all the premisses as a vassall and feudatary, for which we doe liege homage, and promise fealty to Pope *Innocent* and his Catholique successours. And afterwards. And in witnesse of this our gift and grant, we will and decree that the Church of *Rome* receive yearly a thousand Markes Sterling of the proper revenues of our said Kingdomes, besides the *Peter-pence*.

¶ After this, that honest *John Lackland* was absolved from his excommunication, And my Lord Legat began earnestly to advise the King of *France* to desist from his enterprise, who was now in readinesse to passe over into *England* with great forces. So *Matthew Paris*. Another relates it thus. The King of *France* being cozened by the many talks and faire words of the Popes Nuncio's, seeing King *John* sheltered under the shield of the Court of *Rome*, gave over his enterprise after he had spent fourty thousand pounds upon it, receiving thereby a great deal of shame. Thou wrongs him, *Englishman*, it is the sanctity of *Rome* which should have blusht at it rather.

Matth. Paris. ubi supra.

Matth. Westminster. ubi supra.

¶ This history with divers others of this kinde which wee could urge, prove that to be true which *Marsilius* of *Padua* witnesseth. The Bishops of *Rome* (saith he) having thus broken the ice, they first excommunicated some, under pretence of labouring for peace and unity amongst the faithfull people of *Christ*, whereas it is indeed because they refused to stand to their judgement. Afterwards passing sentence against them both reall and personall, and very roughly against some (namely such as are of least abilities to resist their power, such are particular persons, and common-wealths in *Italy*) more mildly against others, as Kings and Princes, whose assistance and active power they are afraid of (on whom notwithstanding they incroach by little and little) and they endeavoured ordinarily to doe it by usurping upon their jurisdictions, having the boldnesse to throw at all at once: by reason whereof, their close prevarication hath hithertowards kept secret, forasmuch as con-

Of the Popes
Kindred.

cernes the Emperours of *Rome* and their subjects; yet so as that now they say they have all the coactive temporall jurisdiction.

Platina in
Greg. 9 p. 167.
Blondus l. 7.
decad. 2 p. 282.

12 The Emperour *Frederick* the second being excommunicated by *Gregory* the ninth, could not make his peace with him without a great summe of mony. He obtained it not (saith *Platina*) till he had given twenty hundred thousand ounces of gold to the Church of *Rome*, for the damages which hee had put it to, and till he went in the habit of a supplicant as farre as *Anagnine* to the Pope: About the yeere 1338.

Johannes A-
ventinus, ex
Johanne Mylla
Strigenf. l. 7
Annales Boiorum
p. 627.

13 *Lewes* King of *Hungary* was compelled to buy *Campania* at a deare rate of *Clement* the sixth, which belonged to him as heire to his brother *Andrew*. About this time (saith *Aventine*) the King of *Hungary's* Oratours sticke fast in the same mire at *Avignon*. *Lewes* King of *Hungary*, that he might not bee excluded from his brothers kingdome, bought *Campania* the inheritance of his brother *Andrew*, which was set to saile by the Pope, and gave him two millions eight hundred and sixty thousand crownes for it.

14 Now these great treasures which they rake up together, are partly for themselves, partly for their children, nephewes, and other kinsfolkes, which are oftentimes seene to be both beggars and Princes on one day. For the first thing they doe after they are settled, is to preferre and ennoble their kindred, and divide amongst them not any pettie summes of money, but whole Earldomes, Dukedomes, and Principalities, to make them Generals of Armies, and such like things, so as all the pompe and magnificence is for them.

Marsilius Pat.
in def. pac. 2.
part. 6, 11 p. 201
Le Songe du
verger c. 24.

15 This was in fashion in *Marsilius de Padua's* age, who lived about 336 yeeres agoe; for speaking of the Popes, he saith, 'They either bestow when they are alive, or bequeath when they are like to dye, as great summes of mony as they can; not upon the poore, but upon such as are linckt with them in affinity or otherwise, however they bee, robbing the poore of them. The author of the *Vergers* dreame makes the Knight speake thus: 'Ye never consider the goods of holy Church which your children, your nephewes, your parents, and sometimes other lewd persons catch away.

Rodericus ep-
isc. Zamorensis
in Speculo hu-
mane vite,
impress. Bisan-
tis. ann. 1488.

16 *Rodericke* Bishop of *Zamore* in *Spain*, and Constable of the Castle of *St. Angelo*, in his Booke entitled *The mirror of mans life*, dedicated by him to Pope *Paul* the second, about the yeere 1488. amongst other cares and inconveniences of the Popedome reckons this for one: 'First (saith hee) domesticke care is an hindrance; and besides, that most unjust greedinesse, and (as I may so say) most enraged madnesse of preferring their parents, of perpetuating their family, their kindred, and the whole generation of such as are descended of their blood; for some Popes would not have one onely, but many great families and noble houses owe their originall to them, and have honourable principalities springing from them.

Frances Guic-
ciardine in
his fourth booke
of the History
of Italy.

† It is effaced
by the Inquisi-
tion out of the
Originall in
most editi-
ons, but the
English reader
may finde the
whole passage
set forth by
Dallington,
with a discourse
upon it. As al-
so annexed to
The history of
the Council of
Trent.

17 These are they of whom those words in the ordinance of *Lewes* the 11, made the 16 of August 1478, ought to bee understood. 'It is a strange thing (saith he) that the unjust exactions of the Court of *Rome* should bee suffered; such are their expectative Bulls, and other like knackes, their money for vacancies, which is levied contrary to the holy Canons and Decrees, and contrary to the determination of the Catholique Church and sacred Councils, that what is so gotten may bee employed in purchasing of Earldomes and Lordships, to bestow upon people of meane condition, and to preferre them without any precedent merit, without any service or use which they can doe to the Church, or for the defence of the faith.

18 *Francis Guicciardine* in the fourth booke of his history of *Italy*, in the discourse which he makes of the Popes of *Rome* (which hath beene expunged by some † cozeners) amongst other vices and abuses which he observes in the Popedome this is one, 'An earnest and everlasting desire of preferring their children,

• children, their nephewes, and all the rest of their kindred and allies, not onely to inestimable riches, but also to Kingdomes and Empires. And a little after; • To exalt their kindred, and raise them from a private state to principallities, they have of late yeeres beene the authors of warres, and the firebrands of the late combustions in *Italy*. We heard before what the same author told us of the Indulgence money of *Leo* the tenth; how it was bestowed to the use and petty pleasures of his sister *Magdalen*.

Of the luxury
of Popes.

19 We will conclude this discourse with a passage out of the same author, which will bring us upon another. • Their study and businesse is not onely (saith he, speaking of the Popes) holinesse of life, nor the propagation of religion and charity towards God and men; but armes and warres against Christians, handling sacred things with bloudy thoughts and hands; but an infinite desire of money, new lawes, new trickes, new inventions to inhance their rents from all parts; for which ends they shoot out their coelestiall arrows, they most impudently practise a trade and traffique of all things sacred and profane; whereby their riches being augmented to an excessive greatnesse, and scattered over all their Court, have brought forth pride, luxury, debauched manners, and most abominable pleasures. See here the saying of a ringleader and conductor of the Popes army, of one who was *Leo* the tenth's favourite.

Guicciardine
in his fourth
book of the
history of *Italy*

20 Let us pause a while upon this luxury which he speaks of, and set down the complaint which divers others have made against it: First, that which *S. Bernard* saith to *Eugenius* the 3, I doe not spare you here (saith hee) that God may spare you hereafter; shew your selfe a shepheard towards this people, or else confesse that you are not so; you will not deny that you are, least you should deny your selfe to be his successour, in whose See you sit, that Peter, who for ought that wee know, never went adorned with precious stones, attired in silks, and clothed in gold, mounted upon a white palfrey, surrounded with a guard, attended with a great many Lackeys; and yet for all this had the power, without all these, to accomplish that saving commandment, If thou love me, feed my sheep.

D. Bernardus
lib. 2. de consi-
derat. ad Eugen-
ium Papam.

21 *John Sarisbury* Bishop of *Chartres*, who lived about 1180, saith, That the Pope is burthensome and insupportable to all men; he builds Palaces out of the ruines of Churches; he goes accoutred, not only in purple, but in gold.

Joannes Saris-
buriensis in Po-
liraticol. 6.
c. 24.

22 *Marsilius* of *Padua*. Let them tell me, I pray them, with what conscience according to Christian Religion, they spend the goods of the poore, living after a worldly fashion, upon so many unnecessaries in horses, servants, banquets, and other vanities and delicacies, both secret and publique? They, I say, who for the ministry of the Gospel, ought to be content with food and raiment; according to the Apostles appointment in the first to *Timothy*.

Marsilius Para-
vinus in def. a-
paci part. 2.
c. 11.

CHAP.

CHAP. X.

Of the unjust power of the Popes.

The Popes
flatterers.



Ne of the maine poynts touching the reformation of the Popes, is the unbridled and redoubted power which hee challengeth both in spirituals and temporals; considering that hee pretends to have an absolute and soveraigne power over both: It were fitting, me thinks, to set bounds to the plenitude of that power which hath neither banks nor bottome; to him that extends his jurisdiction over all the world, even as low as hell and purgatory, as high as heaven; which takes hold of great and small, Clerks and Laiques, things sacred and profane; which hath set all the Church, yea all Christendome, by the ears together; which is the source and fountaine of all our miseries, and against which there have beene so many complaints exhibited upon this occasion.

Consult. de
Borum virorum
Tom. 3. Concil.
edit. Colon.
1551.

2 *Paul* the thirds Delegates had a touch at this point in their reformation; In former times (say they) the truth could not have access to the audience of certaine Popes, by reason of certaine flatterers which magnified and extended their power too much: perswading them that they were Lords paramount of all, and might doe any thing what they list: from this spring have so many miseries in great floods overflowed the Church, that shee is now quite overborne and drowned. See here what they say, who were conjured by the Pope upon oath, and upon paine of excommunication, to tell him the truth of all that required reformation. Wee have formerly observed a place in *Zabriel* of the like straine with this.

*Joannes Ger-
son de potest.
Eccles. Confid.
12.*

3 *Master John Gerson* in his book *De potestate Ecclesie*, hath the very same; On the other side, (saith hee) upstarts cunning and glozing flattery, whispers the Clergy, but especially the Pope, in the eare, O how great is the height of your Ecclesiasticall power! O sacred Clergy, all secular authority is but a toy in comparison of thine; seeing that all power is given to Christ both in heaven and in earth, so Christ hath bequeathed all to *S. Peter* and his successours: So that *Constantine* gave nothing to Pope *Sylvester*, which was not originally his owne, but only restored unto him what he unjustly detained from him. Againe, as there is no power but is of God, so there is nothing temporall or spirituall, Imperiall or Regall, which is not of the Pope, upon whose thigh God hath writ, *King of Kings, and Lord of Lords*. So as to dispute his power is a kinde of sacriledge. To whom no man may say, Why doe you so? although he should exchange, purloine, or sell all the temporals, the goods, lands, and lordships of the Church. Let me be a lyar if all these things are not written by such as seeme to bee wise men in their eyes, and if they have not beene beleevd also by some Popes.

*Marsilius in
def. pac. part. 2.
c. 35.*

4 So *Marsilius* of *Padua* in many sundry places of his *Defensor Pacis*, particularly in the second part, and twenty fifth Chapter; They have taken up a title (saith he) which they arrogate to themselves, and which they would make an instrument of this wickednes, namely the plenitude or fulnes of power; which they say was given to them in particular by Christ in the person

of

of St. Peter as that Apostle's successors: By reason of which accursed title, and their sophistical manner of discourse, they use a certain captious kinde of arguing by equivocation, and labour to bring all Princes in the world, all people, all corporations, and particular persons within their servitude. For having first taken that terme in the sense whereby it signifies an universall cure of soules, and the power of absolving men from sinnes and punishments; under colour of piety, charity and mercy, underhand, and by little and little they come to take it in a sense, where by plenitude of power is understood an universall authority and supreme jurisdiction, or coactive sovereignty over all Princes, all people, and all temporall things.

Plenitude of the Popes power.

5 Gregory of Heymburg, a German Lawyer who lived in the time of Pius the second, about the yeere 1460, saith, After this the Popes being carnall, have presumed so far as to arrogate unto themselves a falsesse of power, by virtue of their Decrees, (as if that were an authentique booke) which they cannot prove out of Scripture: Yea so far forth as that Adrian the second denied his benediction to Frederick the first, when he asked it as his predecessors were wont to doe, and that because he held the left stirrop when the Pope alighted off his horse, and not the right, as the Pope desired hee should have done. Good God what a proud fellow was this! And after hee hath set downe the meanes which they used to arrive at this plenitude, and given some examples of them, he ads, Well may our Popes call and write themselves Christs Vicars and S. Peters, considering what wee have said, as if they derived from them the whole plot of the Plenitude of power; which St. Paul notwithstanding calls folly.

Gregorius Heymburgensis in De consut. primat. Pap in princ 2 part.

6 Peter de Ferrariis a Paduan Lawyer who lived about the yeer 1460, in his pleadings of law, saith; As for Plenitude of Power, which is used of later times to be ascribed to the Popes priviledges and rescripts, it is against God and all law, to the perpetuall detriment and everlasting infamy of their soules.

Petrus de Ferrariis in form. Opponent. Contra testes. in ver. Contra jus. p. 154.

7 Clement the fifth assumes this Plenitude of Power, and extends it to Empires and Kingdomes, as doe also other Popes of whom wee shall speake anon.

Clement. Pastoralis. De sent. & re judic. Extra. unam sanctam. de major. & obedient. Can. omnes. dist. 22.

8 From this Plenitude of power are deduced those grand maxims which the Pope and they of his Court take for granted, but good Catholiques have ever denied them. We wil here set down some few of them, (not all, for that would require a large volume) which we will produce either out of the Popes owne books, or out of such Doctours and interpreters of theirs, as are avowed and approved by them. Behold here one of them in the first place which seemes to comprehend all; That the Pope is holden to be Christs Vicar, not only in respect of things in earth, in Heaven, and Hell, but even over Angels both good and bad. Let us now set downe the rest in order.

a Lanc. Contrad. in Templo omnium judic. l. 2. c. 1. S. 4. b Baldus in l. Rescripta. C. de preci. Imper. off. no. 7. c Baldus ibid.

The Pope alone hath all the dignity and power which all Patriarchs ever had.

The Popes power is greater than the power of Saints.

d August. Triumphus (sive de Ancona) in Depress. Ec. q 18. art. 1.

The Pope; to whom is committed the government of the Universe, excels all Angels in jurisdiction.

The Pope is greater than the Angels in respect of the administration of the Sacraments, which was not committed to them by reason of their insufficiency whereby they are not fit for it.

The Pope is greater than the Angels, as touching dominion, not in respect of himselfe merely, but by authority from God.

e Idem ibid. art. 3.

The Pope is inferiour to Angels, in regard of naturall knowledge, but in regard of gratuitous revealed knowledge, he is above them.

f Idem ibid. art. 3.

The Pope as concerning recompence of reward, may be superiour to any Angels.

g Ibid art. 4.

The Pope may excommunicate the Angels.

h Ibid art. 4.

10 Besides,

The Popes
proud titles.

Extat hac Bul-
la in tract. de
materiis indul-
gentiarum.
Joannis Phef-
fer Wittenberg.
Theol. Profess.
in Vnivers.
Friburg. scrip-
tum. 1472.

Deciso 1. vel
447. incompila.
Rebuffi. Edit.
Lugduni ann.
1555. p. 27.

Extat hac Ep.
Nicholai 1. ad
Michaelen

Cons. 10. 3. con.
Vnde sumptum
Canon. Satis e-
videnter. dist.

Augustin. Sten-
cheus in lib. de
Donat. Constanti-
stantini. Audis
summam Pon-
tificem à Con-
stantino Deum
appellatum &
habitu pro
Deo: hoc viden-
tibus factum est
cum illum præ-
claro illo edicto
decoravit. Ado-
ravitque Deum.

Augustin. Be-
nignus in rubric.
de offic. deleg.
nu. 10.

Baldus in l.
ult. c. de senten-
tis. rescribend.
Lancelotus
Conradus l. 2.
de templo om-
nium judic. c. 1.

S. 4. de presen-
tia & potesta-
te pont. maxi-
mi.

Idem ibid.
Idem l. 2. c. 1. S.
4.

Hofstiensis in
rit. 4. de tran-
sac. Episc. &
alii.

Lancelot Conradus ubi supra.
Bellar. de Rom. Pont. l. 4. c. 5. Idem Lancel. l. 2. c. 1. S. 4. De reservariis Pontifici.
Cap. Debitus de appellation. Idem Lancelot l. 2. c. 1. Baldus in cap. Cum Super. de causis propriis. & possess. l. 1.
domin cap. Eccles. ut lite pendente. Lancelot Conrad. ubi supra. f. 2. c. 1. S. 4. Ceremonial. Pontif. l. 3. tit. 1.

Idem ibid.
Idem l. 2. c. 1. S.
4.

Hofstiensis in
rit. 4. de tran-
sac. Episc. &
alii.

Lancelot Conradus ubi supra.
Bellar. de Rom. Pont. l. 4. c. 5. Idem Lancel. l. 2. c. 1. S. 4. De reservariis Pontifici.
Cap. Debitus de appellation. Idem Lancelot l. 2. c. 1. Baldus in cap. Cum Super. de causis propriis. & possess. l. 1.
domin cap. Eccles. ut lite pendente. Lancelot Conrad. ubi supra. f. 2. c. 1. S. 4. Ceremonial. Pontif. l. 3. tit. 1.

10 Besides, the Popes suppose the Angels to be but their ushers and Ser-
geants. I did thinke that what is related of the Bulls of Clement the fifth,
whereby hee commands the Angels to take soules out of Purgatory and put
them in Paradise, was but a fable; howbeit they which urge them, assure us
that they are extant at Vienna, Poitiers, and Limoges: but I have met with
one of Clement the sixth, where, speaking of altering the Jubily from a
hundred to fifty yeeres; he ordaines among other things, *That if a man be go-
ing to Rome upon devotion in the yeere of Jubily, and happen to dye by the way,
he shall be totally acquitted and absolved of all his sinnes.* And hee afterwards
addes, *Howsoever wee command the Angels of Paradise that they convey his soul
into the glory of Paradise, being totally absolved from the paines of Purga-
torie.*

11 They pretend also to be greater than the Apostles: Harken what is said
to this point in the late decisions of the Rota of Rome; *All that the Apostle hath
commanded or prohibited is from God and the Holy Ghost, and binds all men; I
meane of inferiour persons, not of the Pope, who is greater in power than the A-
postles, and therefore may dispense with the Apostles.*

12 Nay they make themselves equall to God, and pride themselves in being
called Gods. Pope Nicholas the first, in an Epistle to the Emperour Michael,
saith, *It is evident that the Pope was called God by the devout Prince Constance;
and it is a plaine case that God cannot be judged by man.* The Glosse would have
this honour communicated to other Bishops, who (it saith) are called Gods
likewise: But there be other interpreters who informe us, that it is peculiar to
the Pope only, and that the title is not given unto him as unto others by way of
hyperbole, but that he is a God indeed.

13 Augustin Stencheus, the Popes Library-keeper, *Knowest thou not* (saith
he) *that Constantine called the Pope God, and accounted him so to be? So hee did
when he honoured him with that goodly Edict, hee worshipped him as a God.* And
yet Constantine spake of Bishops in general, for it was at the Councell of Nice,
and not at the time of that pretended donation which never was made.

14 Elsewhere it is said, *That the Pope is equall to God: That there can
be no appeall from him to God: That he is God upon earth: That as God
he can judge of the verity of the fact, and according to conscience: That he
is never supposed to judge otherwise than God himselfe: That God and he
have one and the same Consistory: That he can determine against the law of
Nature, the law of Nations, and the law of God with reason; yea that some-
times hee can make expositions and limitations against the law of Nature, of
Nations, and of God, with reason or without reason: That he must be be-
lieved upon his bare word, even to the prejudice of another: That if hee
preferrre an unworthy person, it is to be thought hee dispenseth with him:
That hee can make something of nothing: That he can go against all Coun-
cels and Statutes: That he can make wrong to be right: That hee can doe
any thing beside law, above law, against law: To whom no man may say,
Why doe you so? Whose pleasure stands for reason: Whose power may
not be disputed, without incurring the crime of sacrilege, forasmuch as he is
the cause of causes, and the just cause; and for that it is to be presumed that
whatsoever pleaseth him is just and reasonable.*

15 Divine honours have also beene ascribed unto him: for it is ap-
pointed and prescribed in the Ceremoniall, *That all persons of what digni-
ty or degree soever, when they come before the Pope shall bow the knee thrice
before him at a certaine distance, and kiss his feet.* Thence followes adora-

Lancelot Conradus ubi supra. Bellar. de Rom. Pont. l. 4. c. 5. Idem Lancel. l. 2. c. 1. S. 4. De reservariis Pontifici.
Cap. Debitus de appellation. Idem Lancelot l. 2. c. 1. Baldus in cap. Cum Super. de causis propriis. & possess. l. 1.
domin cap. Eccles. ut lite pendente. Lancelot Conrad. ubi supra. f. 2. c. 1. S. 4. Ceremonial. Pontif. l. 3. tit. 1.

tion.

tion. The Bishop of Zamore saith; *Let him be highly honoured, let him be ex-
colled and adored in all the parts of the world, let every knee bow before him, as is
fitting they should.* Menotius speakes of these honours with a very good grace;
I will make him speake in his owne language for the elegancies sake: *Nec est
hodie princeps super terram qui non flectat genua coram Domino Papâ, & qui
non se multum aestimet, qui ne se tienne bien fier, ejus pedes osculari.* Ioseph Ste-
phanus a Devine hath writ a book in our dayes which he intitles *Of the adora-
tion of the Popes feet.*

The Popes u-
surped power
over Princes.

Rodericus
episc. Zamoren-
sis in Speculo
humana vitæ.
l. 2. c. 3.
Michael Meno-
tus in Sermon.
quadragies.
feria 3. post 2.
dominica quad-
rages.
Hæc est Annul-
phi Aurelianen-
sis episcopi ora-
tio habita in
Concilio
Rhemenſi.
Actis inserta.

16 These excessive honours, and this divine power which is ascribed unto
him, have contrained some to cry out and complaine of them. In the Acts of
the Councell of Rhemes under Hugh Capet, wee finde these words directed to
the Pope: 'What thinke you (Reverend Fathers) who that should bee that
' is seated in the highest place, who glitters with a garment of gold and purple,
' I say, who thinke you that should be? if he be without charity, and be puffed
' up and exalted onely for his knowledge, then hee is Antichrist sitting in the
' Temple of God, and carrying himselfe as God: but if he bee neither groun-
' ded in Charity, nor exalted in knowledge, he is like an image, like an idoll in
' the Church of God.

17 The Emperour Fredericke the second in the letters which he writ to the
Princes of Germany, saith; *The Pope being growne over wealthy, to the great de-
cay of Christian piety, thinkes he may doe any thing, like most wicked tyrants, as if
he were a God, he will not give any reason for his actions, to any man; he takes up-
on him that which belongs to God alone, for it is thought he cannot erre.*

18 A German Bishop who lived under the same Emperour, in a certaine O-
ration which he delivered in an assembly held at Rhegimburg, saith amongst o-
ther things, *That the Popes will never have done till they have trampled all things
under their feet; till they be seated in the Temple of God, and exalted above eve-
ry thing that is adored.* And a little after. *He that is a servant of servants desi-
reth to be Lord of Lord, just as if he were God.*

19 One of our old French practitioners hath made the very same complaint.
*The Pope (saith hee) styles himselfe in words a servant of servants, but in very
deed he suffers himselfe to be adored, which the Angell in the Revelation refused
to doe.* A learned Cardinall of Florence reproves the Popes flatterers, because
they beare them in hand. *That they may doe any thing, that they may doe what
they please, even things that are unlawfull, and so more than God himselfe: whence
infinite errors have proceeded.* Hee afterwards addes, that in the Cotuncell
which shall be holden about the reformation of the Church, *It will bee sitting
to advise concerning the honour which shall be done unto the Pope, that there be no
excesse in it, that he be not honoured as God himselfe.*

20 They take upon them also all power, authority and jurisdiction over
Emperours, Kings, and Christian Princes, and over all temporalties whatsoe-
ver. We will here insert some of their maximes concerning this point: First,
that which they say is contained in the donation of Constantine: 'To the end
' that the Pontifical dignity be not disesteemed, but more eminent in glory and
' power than the Imperiall, we give and grant to the most blessed Bishop Syl-
' vester, universall Pope, our Palace and City of Rome, together with all the
' Provinces, Palaces and Cities of Italy, and of the Western Countries: wee
' decree by this our Pragmatique Sanction, that he and his successors may dis-
' pose of them, and that they shall belong to the right of the holy Church of
Rome. By this pretended donation all the Princes of Europe are made the Popes
vassals and subjects. They say further,

21 That it is necessary to salvation to beleve that every creature is subject
to the Pope of Rome.

22 That he is set over Empires and Kingdomes.

Eberhardus
episc. Salisburi-
ensis apud A-
ventinam l. 7.
Annal. Boierum
p. 547.

Joannes Faber
in præfat. ad
Fulminan. In-
stitut. papæ in
verbis se dicit
servum servo-
rum, de facto
tamen se adora-
ri permittit,
quod Angelus
in apocalypsi
refugit.
Zabarella Car-
dinal. Flor. in
tract. de schism.
Pont.
Can. Constans-
tius dist. 96.

a Cap. unam
sanctam, extra,
de majoris. &
obed.
b Ca. 1. Extra.
de consuet.

Of the Popes
supremacy.

c *Ca. fundamen-
ta. de elect. ju.
d. Clementin.
Pastoralis. de
re judic.*

c *August. de
Ancona. De
Potest. Eccles.
q. 36. art. 2.
f Idem ibid. q.
35. art. 1.*

g *Lancelot. Con-
radus in templo
omnium judic.
l. 2. c. 1. §. 4.*

h *Idem ibid. de
Presb. & po-
test. Pontif.
maxim.*

i *Ca. Venera-
bilem. extra.
de electione.*

k *August. de
Anc. q. 37. a. 1.*

l *Idem q. 37.
art. 2.*

m *Idem q. 37.
art. 3.*

n *Idem q. 37.
art. 4.*

o *Et Ca. Venera-
bilem. extra de
electione.*

p *Idem August.
q. 37. art. 5.*

q *Idem q. 38.
art. 1.*

r *Idem q. 38.
art. 4.*

s *Idem q. 39.
art. 1.*

t *Idem q. 35.
art. 6.*

u *Idem q. 35.
art. 3.*

v *Idem ibid.
art. 4.*

w *Idem q. 46. a. 3*

x *Idem q. 45.
art. 3.*

y *Idem q. 45.
art. 3.*

z *Idem ibid. a. 2.*

a *Idem q. 46.
art. 1.*

b *Ibid. q. 44.
art. 4.*

c *Idem ibid.
art. 5.*

d *Alvarus Pe-
lagius de
planctu Eccles.
l. 1. art. 37.*

e *Idem ibid.*

f *Idem ibid.*

23 That he carrieth both the temporall sword and the spirituall.

24 That the Empire depends upon the Pope, and that hee hath dominion over it.

25 That the Imperiall or regall power is borrowed from the Papall or Sacerdotall, for as much as concerneth the formality of dignity, and receiving of authority.

26 That he may chuse an Emperour himselfe upon just and reasonable cause.

27 That he may appoint guardians and assistants to Kings and Emperours, when they are insufficient and unfit for government.

28 That he may depose them, and transerre their Empires and Dominions from one line to another.

29 That Pope Zachary transferred the Kingdome of France upon Pepin.

30 That the translation of all Kingdomes whatsoever was done by authority of the Pope, or of some other that represented him.

31 That the Empire was transferred upon the Romans by the Popes authority.

32 That the Empire was transferred from the Romans to the Grecians by the Popes authority.

33 That the Empire was transferred from the Grecians to the Germans by the Popes authority.

34 That the Empire may be transferred from the Germans upon any other by the Popes authority.

35 That the confirmation of the Emperour belongs to the Pope, to whom also belongeth an universall jurisdiction.

36 That the Emperour ought to swear allegiance to the Popes.

37 That he cannot exercise his Imperiall power, unless hee bee confirmed by the Pope.

38 That the Pope may make the Empire hereditary, if he see it expedient for quietnesse sake; for just as he now ordaineth that it shall be elective, so hee may bring in an hereditary succession.

39 That he may change the Electors of the Empire, if any evident and apparent benefit of the Christian Common-wealth doe so require.

40 That the Electors of the Empire may bee appointed out of another Countrey than Germany, if any just reason so require.

41 That he may absolve subjects from the oath of allegiance.

42 That the Pope upon just cause may set up a King in every Kingdome; for he is the overseer of all Kingdomes in Gods stead, as God is the supervisor and maker of all Kingdomes.

43 That if one be oppressed in the Court of externall judgement, hee may appeal from any man, King or Emperour, unto the Pope.

44 That the Pope hath jurisdiction over all things, as well temporall as spirituall, through the whole world.

45 That it belongs to the Pope to correct Kings when they offend, seeing that he is the judge of the quicke and the dead in Christs stead.

46 That the Pope may correct the Imperiall law by his authority, as the divine law doth the humane.

47 That the Pope may alter the Imperiall laws according to the diversity of the times, if any evident commodity be like to insue upon it.

48 That the Pope, by reason he hath the Empire of Rome may and ought to reduce the Holy Land under his jurisdiction.

49 That the Pope hath the propriety of the Western Empire, and the rest of the world in protection and tuition.

50 That he may justly make an ordination and decree against infidell Princes

ces, although their Countries were never possessed by Christian Princes, that they do not unjustly molest the Christians within their dominions.

51 That^e if they evill intreat the Christians, he may by his sentence deprive them of that power and jurisdiction which they have over them.

52 That^e he may command the Infidels to receive the Preachers of the Gospel into their territories.

53 For ought that I can see, the King of China and the great Mogul shall fare no better than Christian Princes, unlesse they come very speedily and submit themselves to the Pope. He hath met with the Kings of India, of Peru, Brasile, Cuba, and all those other isles of the Ocean; which were of farre more difficult accessse than those Kingdomes we speak of. Alexander the 6, anno 1493 made a faire deed of gift to Ferdinand King of Aragon, of all those poore Barbarians, and of all their Countries and Kingdomes, although he never knew them, nor had they ever offended him: *Of our meere bounty and certain knowledge, and the Plenitude of our power Apostolicall, we give, grant, and by these presents, do assigne to you, your heirs and successors for ever, Kings of Castile and Leon, all the Ilands and Continents which have already beene discovered and found out, or which hereafter shall be towards the West and South, drawing a line thereof from the Arctick or North Pole, to the Antartick or South Pole. And we make, constitute, and appoint you, your heirs and successors Lords thereof, with full free and absolute power, authority and jurisdiction.* But enough of this, for any man may judge by this what will become of the rest.

54 So one of their Doctors expounding that passage of sacred writ, Give unto Cesar the things that are Cesars, saith, That was spoken but for a time, not for ever; that it was to hold only till the ascension of Jesus Christ; and afterwards that should come to passe which was spoken, When I shall bee lifted up from the earth, I will draw all things after mee. That is, (saith this great Rabbini) I will recover all the Empires and Kingdomes of the world, and will take them from Cesar, from Kings and Princes, to give them to the Pope. See here one of the finest and truest Prophecies that ever was read; for he hath more stroke in the Empire and Kingdomes, than the Emperours and Kings themselves, at least among Christians.

55 Wee need not wonder hereafter at the extravagant of Boniface the 8, where he will have it to be necessary to salvation, to beleve that all the faithfull people of Christ are subject to the Pope of Rome; that hee hath both the swords; that hee judgeth all men and is judged of none. Nor of that which hee writ to King Philip the Faire, That he was subject to him both in spiriuals and temporals. Nor at that which a German Historian relateth of him, That supposing Kingdomes and Empires to be in his power, he made his brag that hee had two swords. Nor at that which before his time Nicholas the first writ to the Milanais, That God hath bestowed upon S. Peter and his successors, the right both of the Terrestriall and Celestiaall Empire. Nor at that which Gregory the 7 saith in one of his Bulls, speaking of himselfe, That all the world may understand at last, that wee give and take away Empires, Kingdomes, Principalities, and whatsoever mortall men are capable of. Nor at that pretence of Clement the 5 in one of his Clementines, That without all doubt he hath the command of the Empire, who, by reason of that power which he hath, succeedeth the Emperour in the vacancy of the Empire. Nor at that which Clement the 6 pretended, that the Empire devolved upon him after the excommunication of Lndovicus Ba-
varus, and that upon that occasion he placed Governours in the Cities of Italy; following herein the example of his predecesour John the 23, who set forth in his Bulls to all the world, That he had divided all Italy from the Empire, and from the Kingdome of Germany: That the Pope is universall Lord, not only of things spiritiuall but also of temporall. Nor likewise at this, that the Popes

The Popes bestowing of Kingdomes.

g Idem ibid.
h Idem ibid.

Cap. mico de
insulis novi or-
bis. l. 7. Decret.

Iacobus de Te-
rano in tract.
Monarch.

Extrav. Vnam
sanctam. de
majorit. & o-
bed.

Albert. Crantz.
Metrop. l. 9. c.
201.
Platina in
Greg. 7.

Clementin. pa-
storali de sent.
& re judic.

Sabellus
Ennead. 9. l. 8.

Naucerus Ge-
nerat. 45.

Of the King of
France his
Priviledges.

have declared all thole to bee hereticks who in their writings have defended
That Empires and Kingdomes depend not upon the Pope, but upon God alone.

Can. alim. caus.
15 q. 16.

56 The King of France is deceived if he thinke he is exempted by his *Clementine, Mernit*; hee hath to doe with people that know how to expound Scripture; that will pick out the sense where all the greatest Doctours of the *Sorbon* would bee put past their divinity. They know well enough how to tell him that he and his Kingdome are onely restored by that *Clementine*, into the state wherein they were before *Bonifacio* his Bull; that the Realme of France was, before that, subject to the Popes Dominion, by the donation of *Constantine*; That the Pope is Lord and Monarch of the *Vniverse*; that hee hath both the swords; a plenitude of power both over temporals and spirituals; that the Decrees which bestow this right upon him, are confirmed by the Councell of *Trent*: that Pope *Zachary* deposed *Childeric*, absolved his subjects from the oath of allegiance, and bestowed the Realme upon *Pepin*: that this Pope *Clement* being a French man would have favoured the French, but hee could not doe it to the prejudice of St. *Peters* patrimony: that hee trembles yet at the fright which *Nogaret* put his predecesour into. And whereas it is conceived that some such promise was extorted from him, and some obligation which bound him so to doe, upon condition hee were made Pope, they will urge the example of the Emperour *Henry* the 5, whom the Councils of *Lateran* and *Vienna* caused to give up his investitures, notwithstanding the dispensation which *Paschal* the second had granted unto him in that behalfe; yea, and the examples of our owne Kings, whom *Benedict* the 13, *Julius* the 2, *Gregory* the 14, and *Sixtus* the 5, did not iticke to excommunicate for all their priviledges.

37 Besides, the Councell of *Trent* being allowed, which gives all power to the Popedome, even over Councils, it must belong to the Pope to dispose of all things as supreme judge, to alter the Decrees of his predecesours, to abrogate such as are disadvantageous unto him; who shall contradict him? No King dare intermeddle how great soever he bee; and if he do, he will but loose his labour. We will returne to the dayes of old, when excommunications from *Rome* were so terrible, when all things shrunke at the flash of thole thunders. The *Fredericks*, the *Henries*, the *Ludovici Bavari* have felt the force of it; they have beene abandoned of their subjects, their vassals, their kindred, their allies, their owne children: they have been troden under foot, deposed from their Empyres, defamed as heretiques, chased like raskals. Goodly mirrours to represent to the life to all Princes of Christendome, if they were not blinde, the miseries that hang over them and their successours.

Marsili: patav.
in def pacis.
part. 2. c. 25.

58 Not without good reason did that great devine *Marsilius*, after he had seene all the tragedies in his age acted, make a loud out-cry, which deserves now more than ever to pierce the ears of Princes, *I cry aloud* (saith hee) *like a trumpet of truth*, and tell you it is the greatest prejudice that ever was done to Kings and Princes, to all people, assemblies and languages, which the Bishops of Rome with their associates the Clerks and Cardinals have done: By this their Decree, which is utterly false in all the grounds of it, (he speaks of the *Clementine, Pastoralis*, after he hath urged the words of it) they goe about to bring you in subjection to them, if you suffer this constitution to prevaile; yea if you suffer it to have the power and force of a law. For consider that it followes of necessity that hee which hath authority to repeal a former sentence of any Prince or Judge whatsoever, hath also jurisdiction and coactive power over him; and further, the power of erecting or putting downe his Principedome. Now the Bishop of Rome doth challenge to himselfe this authority equally over all Princes and Principalties of the world; inasmuch as by virtue of that Plenitude of Power which hee affirms

affirmes to be granted unto him by Christ in the person of S. Peter, he hath repealed the sentence of Henry the 7. No man can tell how to give the force of a law to that Decretall which he speaks of, better than by receiving the Council of Trent; which expressely confirmeth all the Constitutions of the Popes.

The King of France his privilege vain.

59 But it were fitting we here added the examination which the same author makes of Boniface his Decretall, and the Clementine, Meruit, to shew that the King of France his privilege cannot choose but be void; and that other Princes being the Popes subjects, hee must needs be so as well as they; Considering more thoroughly these kinde of Epistles and Decretals, they may seeme to be meere fooleries; for that of Boniface obligeth all Princes and people in the world to the beliefe of it: that of Clement not all; for only the King of France and his subjects are excepted out of it. So then there will be some things which some men by authority of Scripture are bound to beleieve upon paine of damnation, which other some are not bound to beleieve: surely this is not one God, one faith; all are not bound to goe to Christ in the unity of faith; and yet the Doctour of the Gentiles plainly affirmes the contrary in the 4 to the Ephesians. Besides, we may ask Pope Clement in what sacred sense the King of France and his subjects could merit by their faith not to be bound to beleieve those things which ought to be beleieved upon paine of damnation? either then they merited by their faith to be Heretiques and Infidels, or else the Epistle of Boniface contains a down-right lye: and so things which are not true oftentimes overthrow themselves when no body thrusts them. Besides, there is matter of admiration for other Princes and people, who may demand what place of Scripture, or what exposition makes them subject to the jurisdiction of the Pope of Rome, and exempts the King of France? Or why some are more bound to beleieve upon paine of damnation than others? For this being like a fiction, hath been deservedly much derided, and is yet; as proceeding from the ambition of them that vent such things, and the earnest desire of reigning over Secular Princes, and the terror of the most illustrious King of France.

Musil. Parav. in def pac parts 2. c. 20.

60 Wee will adde furthermore that this domineering power which the Popes have usurped over all Princes of Christendome, hath driven them into some heinous injustices, as to usurpe their Empires and Kingdomes, to raise up war among them; to rob them of their inheritance; to muster up their own subjects against them; to sow quarrels and contentions among them; to cause innocent blood to be shed; to abuse excommunications, and other spirituall weapons: and in a word to exercise an intolerable tyranny: Whereof there are so many pregnant proofs and examples that no man can doubt of it, if he be not a meere novice in hiltory, or unlesse he have not bin extant in the world in these latter times. Neverthelesse I will quote some in the * margent to iustifie my assertion against detractors.

* Venericus Vercellensis lib. de unit. Eccles.

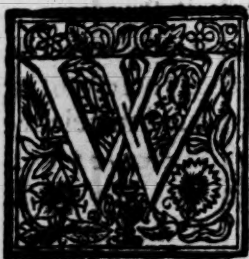
confer. p. 12. 37. 40. Epistola Leodiensium tom. 3. Concil. ex edit. Colon. ann. 1551. Marfilus Patavin. in defens. pacis part. 1. cap. ult. & part. 2. capitib. 22, 23, 24, 25. Aventinus lib. 7. annalium Botorum ubi refert rogationem Procerum Germanorum pag. 621. & ubi loquitur de Frederico 5. pag. 533. Arnaldus Ferronius de rebus gestis Francorum, ubi loquitur de Julio 1. Gauciacardus lib. 4. hist. Italia, in loco detecto. Baptista Mantuanus lib. 1. Sylvarum. Eusebius in apologia adversus Arumica blasphemiam. Ladvicus Romanus. cos. 522. num. 9. Martinus Polerus in Henrico 6. sub ann. 1309. Guilielmus Malvestoriensis Anglus lib. 4. cap. 2. Platina in Gregorio 7. & in Bonifacio 8. & in Alexandro 3. & in Innocentio 4. & in Eugenio 4. & in Julio 2. Otto Frisingensis lib. 7. Chron. c. 9. Helmoldus in Chronico Slavorum c. 28. & sequens.

CHAP. XI.

Of the Popes honours.

Of holding the
Popes stirrop.

Can. Constant.
dist. 96.
August. Steu-
chius, Papa
bibliothecarius,
l. 2. de donat.
Constant. c. 66.
Platina in
Steph. 2.
Cereemoniale
pontif. Tit. 2.
sub §. Ordo
processionis con-
iunct.
Et l. 3. sub §. de
prima lotionem
manuum.
Et §. de modo
portandi fercul.
Helmoldus
Presbyter,
Lubecensis,
in hist. Slavo-
rum c. 8.



WE will now speak a word or two of those honours which they would have Emperours and Kings, and other earthly Monarchs, to do unto them, whom they make their Lackeys, causing them to attend upon them in most shamefull manner: For we are bound to beleve, by the supposititious donation of *Constantine*, that the Emperour *Constantine* holding the bridle of *Sylvesters* horse, underwent the office of a Lackey. Some of the Popes domestiques affirme that *Pepin*, one of our Kings, did as much to Pope *Stephen* the 2.

2 And in the Popes Cereemoniall these Chapters are inserted; That Kings and Emperours must hold his stirrop when he gets up, or alights from his horse. That they must lead his horse by the bridle: That if he goe in a litter, the Emperours and Princes must carry him upon their shoulders: That when he sits down to table, they must hold the bason while he washeth: That they must carry up his first messe.

3 Now these honours are not only set downe in their Books, but have been actually proferd and beene admitted and received. *Fredericke* the first is thought to have fared but ill because he had not well studied this point of civility and duty, when Pope *Adrian* the fourth came into his army; for, running to the rising stirrop to help him in alighting, in stead of going to the other, hee is thought to have lost his crowne for it: For the Pope was so offended at him, and took it out so hainously in point of honour, that being desired to proceed to his coronation, hee made answer; that *S. Peter* had beene dishonoured, in as much as the Emperour in stead of holding the right stirrop had holden the left. *Fredericke* being much amazed at that complaint, excused himselfe, saying, That it was for want of knowledge, not devotion; and that hee had not been accustomed to holding of stirrops. But the Pope from his excuse drew a subtile argument against him, to pronounce him unworthy of the Empire; for (saith he) if he have neglected out of ignorance a thing which is so easie, how thinke you hee will manage weightie matters? The Emperour seeing himself in danger to be degraded as insufficient and incapable of the Empire, bended all the nerves and veines of his wit, to make this dilemma, which gained him the cause, I would be better informed (saith he) whence this custome proceeded, whether out of good will, or out of custome: if of good will, the Pope hath no reason to complaine, if a man have failed in a thing which concernes civility, seeing that consists in the minds of the giver, and not in necessity of right: if you say that this reverence is due to the Prince of the Apostles from the first institution, what difference is there betwixt the right stirrop and the left, so that humility be observed, and the Prince humble himselfe to the feet of the supreme Bishop? The Historian addes, That the question was disputed a long time, and with much eagerneffe. Hee sayes further, That they parted without giving him the kisse of peace. It went so farre, that the Pope returned without crowning *Frederick*, and beeing intreated, and importuned thereunto by the Princes of Germany, he commanded him first and formost, for pennance of his fault, to goe and conquer *Apulia* from the
Popes

Popes enemies, to restore it to *S. Peter*; and he had much adoe to make him give over that designe. All this is reported by a *German Priest* not suspected. Judge yee now if he did not play his part well.

The Popes
pride over Em-
perours.

4 There was yet after that another great quarrell betwixt them, by reason of certaine letters which the Emperour had writ to *Adrian*, wherein hee committed this grosse absurdity, to put his owne name before the Popes: whereat hee being justly offended, told him in his letter, 'That he wondred much at this, that he seemed not to give unto *S. Peter*, and the holy *Roman Church* her due reverence, for (saith he) in those letters which were sent to us, you put your name before ours, wherby you incur a censure of insolence, if not of arrogance. Whereunto the Emperour replied, 'That all the royalty which the Popedom had, it had it by the liberality of the Emperours, and thereupon (saith hee) when wee writ unto the Pope of *Rome*, wee put our owne name before of right and custome, and by way of justice; wee allow him to doe the like when he writes unto us. Search the records, and if you have not observed what we affirme, wee will shew it you,

*Nauclerus ge-
ner. 39.*

5 We might here adde the picture of *Rome*, which represents *Innocent* the 2 sitting in his pontificall chaire, and *Lotharius* the Emperour, who received the crowne from him, lying prostrate at his feet, which (as Historians say) caused the Emperour *Frederick* the first, to fret and fume when he cast his eye upon it. As also that forme of inscription in *Innocent* the fourths letters; *Innocent &c. The virtue of God, the wisdom of God, to whose unspeakable ma-*

*Albertus Crani-
tz. 2. Metrop.
6. 6. 35.*

jestie all things are subject:

*Matth West-
monast. l. 2.
sub ann. 1245.*

6 *Henry* the 4 was injoynd this pennance by *Gregory* the 7, Not to goe out of *Rome* for a yeere; not to get on horse backe; to visite the Churches in a Pilgrims habit, and to bring forth fruits worthy of repentance, by fastings and prayers. While the poore Emperour was at his *Pater noster*s, submitting himself to all that hee would lay upon him, the Pope made another Emperour to be created in *Germany*, whereof a *German Priest* gives this reason, *That the Cardinals, and others of the Court of Rome, seeing how the earthly powers trembled for feare at the shaking of the See Apostolique, and how those that bore up the world did bow downe to it, might suggest to the Pope, that he should conferre the Empire upon another.* Another time comming to meet with the Pope at *Canisium*, bare foot in the midst of Winter, in Pilgrims weed, he was compelled to stay three dayes in the Suburbs, like a poore rogue, without obtaining audience.

*Helmoldus ubi
supra.*

7 The indignity done to *Frederick* the first, by *Alexander* the third, is well enough knowne, when he received him in peace, he caused him to cast himselfe upon the ground in *S. Marks Church* in *Venice*, and to aske him pardon; when, setting his foot upon his neck, hee said these words, *Thou shalt goe upon the Basilisk and Adder, the Lyon and the Dragon shalt thou tread under foot.*

*Abbas Vrsper-
gensis in Hen. 4.*

8 A Duke of *Venice* to make his peace with *Clement* the fifth, for himselfe and the State, was constrained to goe upon all foure towards the Pope, with a chaine about his neck; *Innocent* the 4 would not forgive *Frederick* the 2, notwithstanding, the intercession made by King *S. Lewes*, who writ unto him in person to *Lions*; who offered in behalfe of the Emperour for satisfaction of his faults, 'To goe in Pilgrimage into the Holy Land, to make warre, and stay there all the dayes of his life. Whereat the good King taking scandal, came home vext and ill appeased, having found no humility in the servant of servants, (saith an *English Monke*). Nay which is more, 'Hee forbade him entrance into his Kingdome, saying, The Vicar of Christ follows not the footsteps of Christ, as the same Authour.

*Le mer de bi-
sloires.*

*Matth. West-
monast. 2. sub
ann. 1246.*

9 The same King by the Councill of the Peeres in *France*, had formerly denied

The Popes omnipotency.

Matth West-
mon. l. 2. sub
ann. 1244.

Rodericus E-
pisc. Zamoren-
sis in speculo
humane vite
l. 2. c. 1.

Job 9.

Antoninus in
part. hist. tit.
22. c. 17. §. 1.
Jacobus de
Teramo in tract.
Monarch.

denied Gregory the 9 entrance into his Kingdome, *Knowing that by his coming, there would no good come either to the King or the Kingdome*, saith the Historian; who further addes this, speaking of the French men and the Pope; *They were affraid that hee would not know his enemies, as the rat in the poke, or the serpent in the bosome.* And yet this King was Canonized by the Popes. Philip the Faire was in danger to be so by Clement the 6, for sending Boniface into Paradise. But Lewes the 12 was excommunicated by Julius the 2 for being too good to him: and Henry the 3 by Gregory the 14, because hee was growne too devout, and doted too much upon the reliques of Rome.

10 Let us now see some draughts of the Popes greatnesse, taken from that description which the Bishop of Zamore, and Constable of the Castle of S. Angelo makes of it in his *mirrour of mans life*, which he dedicated to Pope Paul the 2. *That the Pope is instituted and ordained not only for humane principalities, but also for divine; not onely to rule over mortals, but also immortals; not only over men but also over Angels; not only to judge the quicke, but the dead also; not only in earth, but also in heaven; not only to preside over Christians, but also over Heathens: And, to bee short, that he is instituted and ordained by the great God in his stead over all mortals; to be held in the same dignity, to have the same power and jurisdiction, and the superiour and universall dominion over all the world.*

11 Afterward hee applyes unto him certaine places of Scripture which speake of God: *Of whom (saith hee) it was written by Job, that those which beare up the world stonp before him: and that the Kings of the earth are matters worthy of derision: that hee onely hath all power: the Scripture saith, that hee is one, and there is not a second: and that it was writ to him, Thou art alone and there is no man with thee. And againe, Thou art mighty over all them which are mighty: To whom all justice, power, and Empire doth belong, as the Prophet testifies; and whom David afterwards meant, when he said, Hee hath given him the power and the Kingdome, and all people and languages are subject unto him.* And presently after hee saith, *'The greatnesse, excellency, com-
'modity and necessity of the Popedome is seene in this, that (as the Philo-
'sopher testifies) the world could not bee governed if there were not
'some supream principality in it. Wee must needs come to him onely who
'directs and governs all particular things: by whose managing and disposall
'all actions of the Hierarchies are ordered: that in fine the disposall of this
'lower world, may be administred conformably to the Celestiall Monarchy.* And yet more, *'The power of Justice would decay (witness the same Philo-
'sopher) if there were not one in the world to administer it to all; and sup-
'ply the defects of the negligent. And againe, 'There can bee no true nor
'right Common-wealth, if there bee not one above all the rest to guide and
'governe them. Which is the Pope the Vicar of the immortall God. Af-
terwards he ascribes unto him a commutative and distributive justice over the universall world; and speaking of this last, hee saith, that being exercised by him, it doth institute and ordaine dignities, principalities, Kingdomes and Empires according to merits, and transerre them from one Nation to another, according to their demerits.*

12 Hee that will not bee content with this, may further read the Oration which was spoken in the presence of Pope Pius the second, by the deputies of Florence, registred in his History by Antonine Archbishop of that City, for the instruction of posterity. Hee may read also, that which one James de Teramo, Chamberlaine to Urban the 6 hath written concerning this point; and Avarus Pelagius, great Penitentiary to John the 22. Together with other mercenary authours, the Popes domesticks; who spare no qualities, either divine,

devine, or humane, to set forth unto us the power, the dignity, and the divinity of the Popedom. Which authours and others above by us alleadged, are so well approved by them, that they sleep upon their pillows, just as *Homer's Iliads* did upon *Alexanders*. For that same *Austin de Ancona*, out of whom we formerly cited many maxims, and those of the finest, was dedicated by the authour to *John* the 22, Ann. 1320, and afterwards to Pope *Gregory* the 13, by a Generall of the Order of the *Austin* Friars, and printed at *Rome* by *George Ferrarius*, Ann. 1582, with expresse priviledge of the same *Gregory*. And *Lancelot Conrade*, who helps well to build up this divinity and omnipotency, out of whom we have cited some passages, professed in his Preface that his booke was approved by Pope *Pius* the fourth, one of the authours of the Councell of *Trent*, and one that did the most good there. To make this assertion yet more evident, you need but read the *Index expurgatorius*, set out by the authority of the Councell of *Trent*, where neither any authors of this stampe, nor any of their fooleries and impieties are ever condemned; but all those who in divers ages have beene so sawcy, as to open their mouthes, and utter any truth against the Holy See, who have gone about to defend the right of the Church, of the rest of the Clergy, of Kings, and Emperours against the tyranny of *Rome*.

A censure of
Popish authors.

CHAP. XII.

Of the complaints and oppositions which have beene made against the Popes dominions over Kingdomes and Empires.



Now these great attempts as they have occasioned great mischiefs, so have they raised great complaints and just disobediences to their unjust commands. Our *French* men, both Lay and Clergy, assembled in a Councell at *Rhemes* about the yeere 870, gave Pope *Adrian* the 2 to understand (who would have put this Realme of *France* in an interdict, and bestowed it upon another, by reason of the question berwixt King *Charles* the *Bald*, and *Lewes* the son of *Lotharius*) that his attempt was a novelty and ununsual, and they would never suffer it: For see here the resolution which was sent unto him on their behalfe, by *Hincmar* Archbishop of *Rhemes*, 'That hee could not be both King and Bishop at once: that his predecessors disposed and governed the Ecclesiasticall order (a thing which belonged unto him) and not the Common-wealth, which belongs unto Kings.

Hincmarus
Episc Rhemen.
in ep. ad Ha-
drianum papam:

Hincmarus ibi.

2 In this action wee may observe a double abuse: First, that the Pope undertakes to transerre Kingdomes by excommunications: next, that it is not for any spirituall matter, but upon a difference of succession, and therefore that assembly added, 'That it was not fitting for any Bishop to say, that it is lawfull for him to deprive a Christian of his title, so long as he is not incorrigible, and the question is not of his personall faults, but of the loosing or getting an earthly Kingdome.

3 The Emperour *Henry* the 4 was excommunicated by Pope *Gregory* the 7, Ann. 1066, and *Ralph* Duke of *Suevia* set up in his stead by his authority: and that because he did not make his appearance before him, being summoned

Of deposing of
Kings.

Idem Orbo
l. 6. c. 34.

Godofridus Vi-
terbienfis in
Chron. par. 2. in
Henr. 4. p. 499.

Epist. Leodien-
sum adversus
Paschalem 2.
tom. 3. Concil.
Edit. Colon.
1551. p. 809.

Bernard l. 2. de
considerat. ad
Eugenium pa-
pam.

Venericus Ver-
cellensis lib de
Unitate Eccle-
siæ.

upon pretence of Simony which he unjustly laid to his charge. The quarrell grew betwixt them upon this occasion, that the Pope was elected without the Emperours consent, contrary to the ancient custome. Whereupon a German Bishop writes thus, 'I read and read againe the lives and Acts of the Roman Kings and Emperours, but I never finde that any of them was excommunicated, or deprived of his Kingdome before this, unlesse we take that for an excommunication which passed in the case of Philip, the first Christian Emperour; who was put among the penitents by the Bishop of Rome: or that of S. Ambrose who prohibited Theodosius the Emperour from comming into the Church, because he had murdered many men.

4 Godfrey of Viterbo in his *Pantheon* which he dedicated to Urbane the 3, saith as much; Wee never read that any Emperour before this was excommunicated by the Pope, or deprived of his Empire. Yet the Abbot of Vsserge saith, that there are examples of it, and hee urgeth that of Pope Gregory the 3, who caused all Italy to revolt from their obedience to the Emperour Leo, whom he had excommunicated and depofed from his Kingdome; yet withall hee gives us to wit, that hee doth not approve the fact. Howbeit (saith hee) the Popes of Rome challenge this power unto themselves, and make their boast that they have done it, yet we acknowledge these things came to passe by the judgement of God, by reason of the sinnes committed by the Emperours, the consciences of Princes and people binding them to make resistance against them.

5 The Clergy of Liege in their Apology against Paschal the 3, who had commanded Robert Earle of Flanders to make warre upon them, and had excommunicated them because they would not abandon the Emperour Henry the 4; How comes this to passe (say they) that Pope Paschall not content with the spirituall sword alone, sends his Champion Robert to Spoile the lands and inheritances of the Church, which if they must needs be destroyed, ought to bee so by the Edict of Kings and Emperours, who beare not the sword in vaine?

6 S. Bernard exclaimes mightily against the Popes dominion, and gives good advice to Eugenius the 3 about this particular, where he tells him amongst other things, You were made superiour to others, for what, I pray? not to domineere I trow. Wee therefore having a conceit good enough of our selves, doe not yet remember that any commanding power was given unto us, but that a ministry was laid upon us: You must consider that to doe the worke of a Prophet, you stand in steed of a wedding hooke, not of a Scepter. Hee saith in another place, This is plaine, that dominion is prohibited by the Apostles: goe you then, I pray you, and (if you dare) usurpe either the Apostleship as rulers, or the power of ruling as the Apostles. The one of the two is forbidden you; if you will needs doe both you loose both. Doe not thinke that you are exempted out of the number of those against whom God makes this complaint, They have reigned but not by me, &c. Hee hath more concerning this point, but this shall content us.

7 Venericus Wercellensis in his book of the unity of the Church, saith, That the sacerdotall judgement hath no more but the spirituall sword, which is the word of God. And speaking of Hildebrand, that is of Gregory 7, But Hildebrand (saith he) and his Bishops have doubtlesse challenged to themselves the very top of regall Authority; yea they have usurped the function of both jurisdictions, in so much that the Kingdome is fully in their power, or where they are pleased to bestow it: being growne more perverse by reason of this great pride, so that they can neither looke to the one, nor the other; neither the Priestdome nor the Kingdome: considering that no one man is sufficient to discharge either of the two, they being such weighty employments: But however bee in neither Christian nor Catholique that contradicts the Gospel, and despiseth the doctrine of the Apostles, which saith, Give to Cesar the things that be Cesars, and to God the things that are Gods. He that serveth God meddlet not with the things of the world.

Fears

Fear God, honour the King: Be subject to every humane creature for Gods sake, &c. He urgeth many other reasons and places out of Scripture, which to set downe might be troublesome.

8 A German Abbat who writ about 1350, speaking of the excommunication of the Emperour *Frederick* the 2, whom Pope *Honorius* had also deposed from the Empire: This sentence (saith hee) being noised abroad into the world, some Princes and divers others tooke it ill, saying, that it concerned not the Pope to set up or pull downe the Emperour, but only to crowne him after he is elected by the Princes.

The Popes usurpation upon Princes.

Albertus Abbas Stadenfis in Chron ad ann. 1245.

9 An *English* Historian makes an observation herereupon, which may much import all Princes. One thing (saith he) vexed all the Princes and Prelats, weighing the future dangers by the foresight of their understanding; that was, that however *Frederick* had sufficiently deserved to be deposed and deprived of all honour, yet if the Popes authority by Gods permission deposed him, so as he could not relieve himselfe, the Church of *Rome* abusing the grace of God, would grow hereafter to such an intolerable height and pride, that she would depose Catholique Princes, though just and innocent; yea and Prelats also upon slight occasions; or would cause them to be deposed and disgraced: and speaking haughtily, and boasting themselves, however descended from low degree, they would say, Wee have trode under foot the great Emperour *Frederick*; and who art thou that thinkest to withstand us?

Marth. Paris. in Hen. 3 p. 660.

10 The Pope having excommunicated King *John* of England, and put his Kingdome in an interdict, compelled him to become a vassale and tributary to the See of *Rome*. Whereupon *Philip Augustus* King of France gave him to understand, that it was an unjust thing, and more than he could doe: wherein he was seconded by the great Lords of France, as we have said in the beginning of the first Booke.

Marth. VVestmonast in Florib. hist. ann. 1216.

11 In the reigne of *S. Lewis*, ann. 1247, what time (as it is probable) hee was gone in the Holy warres, the Nobles of France finding themselves vexed and troubled by Pope *Innocent* the 4, made a League and set forth a declaration against him, where they say amongst other things, That the Clergy (pointing at the Pope) swallow up and frustrate the jurisdiction of Secular Princes, so as by their lawes the children of slaves passe judgement upon free men and their children: Whereas by the Secular lawes of our Kings and Princes, they ought rather to be judged by us.

12 The yere 1244, the Prince of *Northwales*, being a vassale of the King of England, put himselfe and his Princedome into the protection of the same *Innocent*; who received him by the mediation of a certaine summe of money, promising him to shake off his royall yoke. These things (saith an *English* Monke) being come to the knowledge of the King, the Lords of the Land, and other Princes aliens, they were much displeased at him; and abhorring the covetousnesse of *Rome*, they perswaded the King of England to put it to a battell, to curbe the upstart insolence of such an ungratefull person. The same Pope *Innocent* the 4, after the death of *Conrade* King of *Sicily* and *Apulia*, seized almost all the Kingdome into his hand, and entred upon it with an army: Which the chiefe of the Countrey perceiving (saith the same authour) they were vexed at it, and setting upon *Memfred*, half brother to the Emperour *Frederick*, they adhered unto him, and did him homage.

Marth. VVestmon. in Florib. hist. ann. 1245. p. 181. 189.

Marth. VVestmonast. ann. 1254 p. 163.

13 *Philip* the Faire being excommunicated by *Boniface*, who pretended to be Lord Regent of France, was so borne out by his subjects, that when hee demanded their advice how he should demean himselfe, and whether he should put up that wrong: they made answer unto him, commending his good intention, That they were ready not only to stand their goods (which they there wholly

Epistola Archiepiscoporum, Episcoporum, Abbatum, Priorem de Paris. in Concilio ad Bonif. 8.

The Pope stem-
porall domini-
on oppugned.

wholly offered unto him) for that end, but also to expose their persons even to death for him, not refusing any torments. Adding further, and that more plainly by word of mouth, That if the King (which God forbid) would suffer it, or connive at it, yet for their parts they would never endure it. Which, and such like words as may be read in some other passages of that Epistle, are no signes of disobedience, but testimonies of ardour and affection to the service of Princes, which hath often made their subjects speak in this straine.

Joan Tillam in
Chron. sub ann.
1202.

Marfil. Patav.
in def. pac. part.
26. 21.

14 This reply was made by the nobility, and the three Estates, as is testified by the Clergy in their letters to the Pope upon that subject: which Clergy sided also with their Prince, as it appears by those same letters: yet with more caution, by reason of the great reverence which they bore to his Holynesse. Mr. John Tillot Bishop of Paris, speaking of this fact in his French Chronicle, *The impudence of this man (saith hee of Boniface) was wonderfull, who durst affirme that the Realme of France was a benefice of the Papall majesty. But I thinke them the greater fooles who dispute the point; whether the Pope hath this power or no, he put our France under an interdict for the time, but the Bishops tooke the Kings part.* Marfilus of Padua speaketh of it in this manner: 'Experience the mistis of all things, hath showne as much; it is not long agoe when Pope Boniface the 8 dared to excommunicate Philip the Faire of happy memory, Catholique King of France, and put his Kingdome under an interdict, together with such of the Clergy as adhered unto him. The King on the other side complaining of a certaine ordinance publicly set forth by the said Boniface, by the advice of his Cardinals, (which begun *Vnam sanctam*) containing amongst other things, yea by way of conclusion, peremptorily determining, that all Princes of the world, all Commonwealths and Secular persons, are subject to the coactive jurisdiction of the Pope of Rome: albeit the same Boniface had resolved at the same time, to band himselfe particularly against the said Prince, and to stirre up against him his subjects and adherents, and other Christian Princes and people, if death had not hindred him: as the eternal truth, and the memory of divers yet alive can testify.

Albertus Ar-
gentin. in Chr.
Idem p. 129.
Integra hac
constitutio ex-
tat apud Alber-
icum de Rosa-
re, in l. Bene-
d. 2. nonne
C. de quadrien.
prescript.
Et apud Aven-
tinum l. 4. an-
nal. Boiorum
p. 621.
Extat hac con-
stitutio apud
Nauclerum
generat. 45.
Et Aven. l. 4.
annal. Boior.
p. 623.
Albertus in l.
bene d. Zenon.
m. 16 C. de qua-
drien. prescrip.

15 Ludovicus Bavarus was deprived of the Empire by Pope John the 22, because he had taken upon him the name and title of Emperour, and demeaned himselfe as such, before hee was approved by the See Apostolique. But an Emperiall decree was made thereupon, containing, *That Pope Johns proceedings were null, and that the Pope could not attempt such things against the Emperour, considering their jurisdictions are distinct*: So the German Historian, But you must know that there were two Decrees made thereupon by the states of the Empire by the one it is enacted, *That the imperiall dignity is immediately from God alone, and that he ought to be accounted and called King and Emperour of the Romans, merely for his election; that he ought to be obeyed by the subjects of the Empire; that he hath full power to exercise all Imperiall rights, and doe all other things, which belong to a true Emperour, and that he needs not the approbation, confirmation, authority, or consent of the Pope, the See Apostolique, or any other whatsoever.* The other whereby the proceffe of John the 22, against Lewis the 5 called of Bavaria, is called and nullified; whereof wee have spoken elsewhere, setting downe the very same words.

16 This opinion was maintained at that time by divers great Prelats, and learned men in the Court of Rome, Albericus de Rosate being then present, who witnesseth as much in these words, 'I hold (saith he) that this opinion, That the Emperour hath his power from God, is more true, by right, then by the authority of Innocent and others. And there was a great controversie concerning this in the time of John the 22 and his successor Benedict, betwixt them and Ludovicus Bavarus Emperour elect, my selfe being at that time in the

the Court of Rome. But I heard then that some great Prelates, and some learned Lay men in both the lawes, inclined to that opinion as the truer.

The Popes usurping upon the Emperours

17 The same Authour saith in his Dictionary, That the Pastours of the Church, thrusting their sickle into an other mans harvest, made three Decretals concerning that particular: One about the election of the Emperour, another about the depofall of the Emperour Frederick, a third about the dissention and sentence of treason given by the Emperour Henry. There is yet another about the oath of alleageance, which the Emperour is bound to swear to the Pope, and some other power of the Pope above the Emperour. Which Decretals God knowes whether they be just or not; for my part, I thinke none of them are according to law, (with submission to better advice, and under correction, if I thinke amisse) nay I beleeve they were made against the liberties and rights of the Empire; and I hold that the powers are distinct, and that they proceed from God.

Albericus in diction in verbo Electio Imperatoris.

Cap. Venerabilem Extr. de Ele.

Cap. Ad apostolica extra.

de Sententia et re jud. in 6.

Cap. Pastoralis. de sent. & re jud. in Clem.

Cap. 1. de iurejurando in Clement.

Petrus de Ferrariis in practica. in forma respons. rei connect in verbo, Tanquam publici.

p. 85.

Idem de Ferrariis ibid. in verb. prescrip. versus fin.

18 Peter de Ferrariis, an Italian Lawyer, who lived about 1400, speaking of the abuse of excommunication, exclaims thus, O poor Emperours and Secular Princes which endure this and other things of this nature, and inslave your selves to the Church! You see they usurpe upon the world infinite wayes, and you never think of any redres. In another place, questioning whether the Canon law ought to be observed in case of prescriptions after hee had determined for the negative, he addes, The Emperours doe ill, yea very ill, to suffer them to have a meere and mixt Empire, seeing God said to Peter, Put up thy sword into his place; thereby expressly forbidding him to meddle in these matters, whereto Peter obeyed, (as Cynus saith in the Authentique, Clericus C. de Episcopis & Clericis) and considering that this concernes the purchasing of Lay mens goods, the Pope cannot determine any thing about it, for so hee should put his sickle into anothers harvest, contrary to the chapter Novit, and other such like, and the Glosse upon that Extra de Judic: let the Canon law then bee observed amongst the Clergy, who carry their conscience in their hoods, and loose it when they leave them.

Idem Ferrariensis in forma libelli in quo uxor agit a dot. in verbo, Coram vobis,

meth

19 In another place hee enlargeth himselfe more fully upon this subject, commenting upon those words, Plenam & omnimodam Iurisdictionem, The covetousnesse of men (saith he) is so much inhaunced, that they endeavour with all their might to climbe up to jurisdictions, honours, donations, and if it were possible, to the thrones of Heaven: But they never consider what Tully, the Father of eloquence, said in his Offices, wee ought to take heed of the desire of glory. This appetite and desire is so much enlarged, that not Layiques only, but even great Prelates and Clerks are wholly infected with this vice and malady. For you see how the Pope himselfe, who should like a true Vicar follow the steps of Jesus Christ, bestirreth himselfe, to seize upon, and by force of armes to keepe the jurisdiction of Countries, Cities, Villages, and other places which naturally and ever since the creation of the world, and by Christs owne ordinance belong to the Roman Empire; according to that, Give unto God the things which are Gods, and unto Cesar the things which are Cesars. Yea the Pope stands to have superiority over the Emperour, which is ridiculous to speake, and odious to heare: For naturally ever since the beginning of the world, not only Lay men but the Clergy also have beene subject to the power and jurisdiction of the Empire.

20 Speaking in another place of a womans joynture aliened by the husband, This (he saith) cannot bee recovered by the wife, when shee is bound by oath, according to the Canon law, which in this case is repugnant to the Civile: The Canon law (saith he) is observed, even in the lands of the Empire: Here take notice how the Pope usurpes upon the jurisdiction of the Empire in this, as he doth also in divers other things; which com-

Of the two
swords.

Theodoricus, &
Nibem l. 3. de
schismate c. 7.

meth to passe, by reason of the inexperience of the Emperours.

21 *Theodorick de Nibem* in his third book *De Schismate*, speaks his minde very roundly, exclaiming against those who put two swords into the Popes hands: 'Now that the Empire (saith he) depends principally and immediately upon God, as well as the Church or Ecclesiasticall power, is manifest by evident reasons. It is further confirmed by that Decree, where the Pope writes to the Emperour, My Church over which our God hath ordained my Priesthood, while you governe humane affaires, &c: It is proved also by divers testimonies out of the Law. Whence it followes, that they talke forcibly and soothingly, who say that the Pope or the Church hath two swords, the spirituall and the temporall: whereas it is said in the Gospel, Put up thy sword into thy sheath: For if both the swords were in the Popes power, the Emperour, or the King of the Romans should have that title falsely and vainly given unto him. But these flatterers by such like words and writings, breed a great error over all Christendome, and raise as it were a continuall emulation, or contention betwixt the Pope and the Emperour. For by this meanes the Imperiall authority is trampled under foot, and his power called in question, to the great dammage of the whole Common-wealth.

Antonius de
Rosellus in l. de
potestate Impe-
rat. & Pap.
versu Ne Pro-
lixius p. 9.

22 *Antonius de Rosellus* in his book *De potestate Imperatoris & Papae*, saith, It is a foolish and hereticall opinion, that the whole disposall of temporall things is or ought to be in the Popes power, or any other Ecclesiasticall persons. He saith further, He omittes that and laughs at it, which some use for a shift, That the dominion over temporall things, belongs to the Pope habitually, and in power, though he doe not immediatly actuate it, but by the mediation of the Emperour, who (as they say) receives the Empire from the Pope, and the administration thereof; so as he depends upon the Pope. For upon whom the exercise is bestowed, to him also is the habit given much more; seeing that virtue consists in the act, not in the habit. And in another place, Whence it followes, that the Pope hath not the power of electing and crowning the Emperour, by virtue of his high Priestship, which he received from Christ: But he performeth the coronation by virtue of his commission granted unto him by the Empire, which may also be revoked upon occasion.

Idem de Rosellus
in versic. de
vimaratio p. 11.

Albertus Crani-
um Vandal-
orum l. 8 p. 179

23 *Albert Krants* a Dutch Historian and devine, who lived a little before these late broyles about religion, speaketh so of the creation of Kings which the Pope challengeth, as that he plainly shewes, that he dislikes it; For, telling a story of a Duke of Cracovia, whom Pope John the 22 created King of Poland, Then (saith he) the Popes were come to that majesty (which Secular Princes call presumption) that they created Kings.

24 In the Act of the Protestation made by King Charles, ann. 1563, upon the monitory of Pope Pius the 4, set out against the Queen of Navarre, wee finde this clause worthy our observation; As for goods the King thinks it strange, that the said Holy Father will intermeddle with the confiscation of goods within his Kingdome, or with the diminution or disposing of them, as the said monitory affirmeth, contrary to all the constitutions and Canons of Councils that were ever yet seene upon record in the bookes of his predecessors.

25 But there is nothing more masculine & generous than the Remonstrance of that noble Parliament of Paris, exhibited to the deceased King, against the Bull of Sixtus Quintus ann. 1585, whereby he excommunicated the King of Navarre, our Sovereigne that now is, and the Prince of Conde, depriving them of their goods and Lands; As for the holy Bull, the Court doth finde it to be of a new stile, and so farre from the modestie of the former Popes, that it hath no affinity with the wayes of a successor of the Apostles: and forasmuch as wee doe not finde in our records, nor in all antiquity, that the Princes in France were ever subject to the justice of the Pope, nor that the subjects sat in judgement upon the

the Princes religion, the Court cannot take it into consideration till the Pope doe first shew some right which he pretendeth for transferring of Kingdomes; ordained and establisbed by God before ever the name of Pope came into the world; till he have shewed us upon what title he meddleth with the successour of a Prince, full of youth and strength, and who naturally ought to have his heires of his owne body. Hee must informe us with what colour of piety and religion he bestowes that which is none of his owne, he takes from another that which belongs unto him, he putteth vassals and subjects in rebellion against their Lords and Soveraignes, and reverseth the grounds of all justice and civill government.

Of absolving
subjects from
their oath of
allegiance.

26 As for the absolving of subjects from the oath of allegiance to their Lords and Princes, the last words of *Ralph Duke of Suevia*, whom *Gregory the 7* had caused to rise up against the Emperour *Henry the fourth*, loosing the tye of that oath which bound him to his Prince, and creating him Emperour, are sufficient prooffe to any man, that it is a very unlawfull act; 'You see (saith hee to his familiars) how my right hand is fore of a hurt, it is the hand whereby I swore to *Henry my Lord and Master*, that I would never annoy him, that I would never lay in ambush to intercept his glory; but the Popes commands brought me to this, to breake mine oath, and usurpe an honour which was not due unto me. You see what end it is come to. I have received this mortall wound upon this hand which broke the oath. Let them then who have incited us so to doe, consider in what manner they urged us, for feare that wee bee not brought to the downfall of eternall damnation.

*Helmoldus in
Chron. Slavo-
rum. c. 29. p. 65.*

27 *Sigebert*, speaking of the same *Henry*, and of Pope *Urbane the second*, who had also excommunicated him, deprived him of his Empire, and absolved his subjects of their oath of allegiance, 'I dare say (saith he) by the favour and good leave of all honest men, that that new doctrine (that I call it not heresie) was not yet come into the world, That his Priests, who hath said to a King Apostate, and made an Hypocrite to reigne for the sinnes of the world, teach the people that they owe no obedience to bad Kings; no allegiance though they have taken an oath to performe it: that those who take part against their King, cannot be called perjured; but rather he that will obey the King must be accounted excommunicate, but hee that will be against him, absolved from injustice and perjury.

*Sigebertus
sub ann. 1088.
p. 101. 6.*

28 Hee that writ the Booke *De unitate Ecclesie observanda*, in the time of the same *Henry the 4.* which is supposed to be *Venericus Vercellensis*, refuting the motives and reasons of *Gregory the 7.* saith, As for that which he addes, it seemes wondrous strange, that any religious Bishop of Rome should undertake to absolve any man from his oath of allegiance. Not long after hee addes, See how the Catholique Church defendeth every thing which is not reproveable; and therefore shee defendeth both *Zachary* and *Stephen Popes of Rome*, for the merit of their religion and piety: none of which (as we very well know) absolved the French from their oath of allegiance which they had sworne to their King, as Pope *Hildebrand* giveth out in writing, that so by this president hee may cozen the Peeres of the Realme: as if he could absolve them from their oath of allegiance, which they have sworne unto their King in the Name of God, intending by that meanes to depose him and strip him of his Kingdoms. Which being divers times attempted within these fourteen yeeres last past and above, did never yet take effect for all that.

*Venericus Ver-
cellen. in De
unitate Ecclesie
p. 31. & 33.*

29 Afterwards he relates the story of *Pepins* coronation, and there concludes, Marke now the order how things were carried, and observe if any of the Popes of Rome ever deposed the King of France out of his Realme, (as Pope *Hildebrand* writes) and absolved the French from the oath of allegiance which they had taken unto him: which oath (as hath beene formerly pro-

Of absolving
subjects from
their allegiance

*Extat hac apo-
logia five epist.
Tom. 2. Concil.
edit. Colon.
1551.
Et in collect. de
jurisdic. impe-
riali p. 134.*

*Greg. Heym.
in De consuet.
primat. pap.*

*Marsilius in
tract. de trans-
lat. Imperii. c. 5.*

ved by the testimonies of holy Scripture) no man can dissolve without ma-
king the party absolved a lyer, and perjured, and damning of the absol-
ver.

30 The Clergy of *Leige*, in their Apology against Pope *Paschal* the second, speaking of the absolution of the oath of allegiance, which he had granted against the same *Henry* the 4, ' Who can justly blame a Bishop for favouring his Lords party, to whom hee oweth allegiance, and hath promised it by oath? No man doubts but perjury is a grievous offence: God only sweareth and repenteth not, because wisdom keeps the Commandements of Gods oath: But for us, who often repent that wee have sworne, wee are forbidden to swear: If man sweare God injoyne him to performe his oath unto the Lord. Which is not unknowne to those that rend the Kingdome and the Priesthood by a new schisme, and with their upstart traditions, (as some would have it) promise to absolve from all sinne, such as incur the crime of perjury towards their King. Never regarding what God said to *Zedekiah* as by the mouth of *Ezekiel*, who had committed perjury against his King *Nebuchadonosor*, Hee that hath broken the Covenant, shall hee escape? Which *St. Jerom* expoundeth thus; Hence wee may learne, that we ought to keepe touch even with our enemies; and not consider to whom, but by whom we have sworne.

31 *Gregory* of *Heymburg* in a tract of his, ' With what conscience (saith hee) dare any Priest, even the Pope himselfe undertake to absolve the Liege subjects of the Empire from their oath of allegiance and obedience, to which Christ and his Apostles doe binde every one, especially so long as the piety of faith is preserved entire? And if the Pope may dispence by his oligarchicall law, yet hee cannot so by the divine law without imputation of error.

32 *Marsilius* of *Padua* in his Treatise, *Of the translation of the Empire*, speaking of *Gregory* the 13, who made all *Apulia*, *Italy*, and *Spaine* revolt from their obedience to the Emperour *Leo*, and made them deny to pay him tributes and subsidies, by reason of a controversie about Images which was then betwixt them, saith thus; *For this reason the said Gregory undertooke to excommunicate the said Leo, and perswaded all Apulia, Italy and Spaine to withdraw themselves from his obedience, and as much as in him lay put it in execution, howbeit without any great right: Hee also in solempne manner forbade him to receive any subsidies: By what authority I know not, but I wot well by what temerity.*

33 Divers Doctours and learned men, both in divinity and in either law, have in their writings in sundry ages opposed this usurpation of *Rome*, and proved by sound reasons, that the Pope hath no temporall sword: that it is in the power of Princes, and other Magistrates: that hee hath no Secular power or jurisdiction over Kings and Princes, nor over their Empires and Kingdomes, which depend upon God, not upon him: that consequently hee cannot take them from them to bestow them upon another; nor absolve their subjects from the oath of allegiance. These witnesses have withstood the Pope as stoutly by their pens, at Kings and Emperours by their swords; yea so farre forth that their armour had beene but very weake, if they had not beene tempered in these writings, as some Historians doe assure us. And thence it is that the Popes many times have darted out their thunder-bolts against them, and their works. Which our Councell of *Trent* hath used to doe, and which our Popes doe put in execution daily, according to the commission granted them by it, stuffing their *Index Expurgatorius*, with their names. I should bee troublesome if I should here quote their authorities, and much more if I should
set

set downe their reasons: I will content my selfe with citing some few in the * margent besides those whom I have already alledged, to whom any man may have recourse. Christ and the Pope para-
leld.

* *Johannes de parisiis in De potestate regia & Papali. Dantes Aligerius in De Monarchia. Rodolphus de Columna De translatione Imperii. Guilielmus Occam lib. 6. dialogorum part. 1. cap. 9. Et in De potestate Eccles. q. 2. cap. 8. Antonius de Rosellu in De potestate Imperatoris & papa. Jacobus Almain in De potestate Ecclesiastica. Author privilegiorum & jurium Imperii à Theodorico à Nihem restitutus Somnium Viridarii. Aeneas Sylvius De ortu et autoritate Imper. Rom cap. 10. Michael Vlcurrinus Pampelon. in De regimine mundi, ad Carolum 5. Imperatorem. part. 2. q. 2. Andreas de Iserina in usibus feudorum, Tit. Quæ sui regal. Ioannes Igne-
us in disputatione. An Rex Franciæ recognoscat superiorem. Guicciardinus lib. 4. de bello Italia, in loco de-
tracto. Franciscus Duarenus De sacris Ecclesiæ ministeriis l. 1. c. 4.*

CHAP. XIII.

The conclusion of all that went before.

1



Ow to make an end of this Treatise, wee will here set downe the antithesis of *Gregory Haymburg*, which suits very well with the former discourse.

1 CHRIST rejected the Kingdome of this world.
His Vicar canvasseth for it.

2 CHRIST refused a Kingdome when it was offered him.

His Vicar will needs have one which is denied him.

3 CHRIST refused to bee made a Secular Judge.

His Vicar takes upon him to judge the Emperour.

4 CHRIST submitted himselfe to the Emperours deputy.

His Vicar preferres himselfe before the Emperour himselfe, yea before all the world.

5 CHRIST reproved those who desired primacy.

His Vicar wrangles for it against all the Church.

6 CHRIST upon Palmesunday was mounted upon an Asse.

His Vicar is not content with a stately Cavalierie, unlesse the Emperour hold his right stirrop.

7 CHRIST united the disagreeing *Jewes*, and all other Nations in one Ecclesiasticall Kingdome.

His Vicar hath oftentimes raised seditions amongst the *Germans*, when they were at unity.

8 CHRIST, though innocent, endured injuries patiently.

His Vicar, though nocent, ceaseth not to doe injuries to the Church and Empire.

2 *Nicholas de Clemangis* after hee hath discoursed of all the vices of the Popedome, and those of the rest of the Clergy, which he deriveth like petty rivulets from that great fountaine, applies in fine the ancient Prophecies to the See of *Rome*, and bespeaks her thus; 'Rowze up thy selfe now at last from thy too long slumber, O happy sister of the Synagogue! awake one day, & moderate thy drunkenesse, that I may so say, wherein thou hast slept too long: see, read, and understand this prophet, and the rest, (if yet thy drunkenesse have not quite bereft thee of all sense and understanding) if there bee yet any sparke of sound judgement remaining in thee: search the words of the Prophets, and thence consider thine estate, and thy confusion which sleepeth not,

Nicoldus de Clemangis in De ruina & reparat. Eccles. versus finem.

The Pride of
Rome.

but is neere at hand. Thou shalt see what ends are prepared for thee, and how that now is the time that thou crouchest under these villanies with danger; but if thou wilt not heare the Prophets, nor beleeeve that they spoke of thee when they denounced so many miseries, thou cheatest and deceivest thy self by a too dangerour error; for it is of thee they spoke, and thou may perceive, if thou hast not lost all sense, that all those curses which are denounced shall fall upon thee. But suppose their prophecies aime at another thing, what thinkest thou of that Prophecie in the Revelation of St. *John*? dost thou not thinke at least, that it concernes thee in some sort. Thou hast not so lost thy shame with thy sence, that thou wilt deny it: Observe it then and read the condemnation of the great whore which sitteth upon many waters: there behold thy fine pranks, and thy future miseries. Besides, when thou observest how all Empires and Kingdomes, how great, large, and potent soever they are, have beene brought to nought by their pride and injustice, when thou seest them turned upside downe, and overthrowne; and how on the other side, thou hast so far abandoned thy humility, which was thy foundation, and lifted up thy horne so high, how canst thou imaginethat the foundation of humility being taken up and razed, such a great weight of pride as thou hast built thereupon, should not fall to the ground. It is a long time since thy pride, not able to withhold her selfe, hath begun to fall downe, but slowly and by little and little, and therefore the downfall was not perceived by many, but now it beginnes to fall headlong and like a torrent.

Marsilius Pa-
ravinus in def-
pacis part. 2. c.
24.

3 *Marsilius* of *Padua* after hee hath represented all the Popish usurpations, and the indirect meanes which they used, at last resembleth the Court of *Rome* to the Image in *Daniel*; which passage wee will here insert, as fitting well with the whole tract concerning the reformation of the Head; As for mee which have seene it, (saith hee, speaking of the Court of *Rome*) and who have beene there, mee thinks I saw the terrible Image which *Daniel* tels that *Nabuchadonosor* saw in a dreame, having the head of gold, the armes and breast of silver, the belly and thighes of brasse, the legs of iron, the feet halfe of iron, halfe of clay: for what is that great Image else, but the state of the people of the Court of *Rome*, or of the great Bishop? who was anciently terrible to wicked men, but is now horrible to bee beholden by all good men? For the higher members of that Statue (to wit, the Head, the breast and the armes) what are they else to the eye, to the desire, and to the embrace, but gold and silver, and the worke of mens hands? the belly and thighes, what are they but the noise and din of pleadings, and processees for the goods of this world? but calumnies and Simoniacall contracts as well of spirituall things as carnall? the thighes of brasse, what are they but the pompous preparations of pleasures, of luxury, and all kinde of vanities, even such as are not fitting for Lay men? which even they do stamp upon the minds of men, who should be patterns of chastity and honesty. The legs, feet, and toes of iron upon which the Image stands, and which are partly of earth and clay, what doe they import but the usurpation, invasion, and seazing upon Secular Dominions, Provinces, and Kingdomes, by the violent power of armed men, and overlaid with iron, upon which they beare their superiour members? the furnishing with gold and silver which invites the men of warre hereunto? the belly also and the thighes of brasse, by a promise which is often made both lowd and large, by a cheating absolution of their sins and punishments, and by an unjust condemnation and curse (however harmelesse by reason of Gods protection of such as stand in defence of their owne liberty, and will preserve the loyalty which they owe unto their Princes.) The basis of the feet and the toes of earth and clay, which may therefore be broken, what

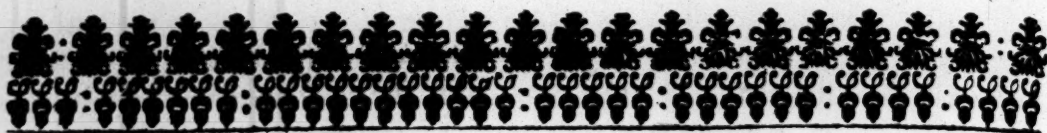
what doe they denote but the incontinency of the Court of *Rome*? what doe they signifie but the open weaknes, that I say not the falsenes and unjustnesse of those causes and occasions, which the Pope takes to oppresse the faithfull people of Christ? But according to the testimony of the same Prophet, there must a stone fall upon this Image, rent from the mountaine without hands; that is, a King whom God will raise up, having chosen him by his grace, from amongst all people, giving unto him the power and Kingdome which shall not be transferred upon an other; hee (I say) more by the strength and grace of God, than by the worke and power of the hands of men, shall first breake in pieces that piece of clay, the feet upon which it unjustly stands; making the false and unjust pretences, or to speake more truly with the Poet those bald occasions, appear unto all Princes & people; discovering their Sophistrie, refuting them by humane demonstrations, and disanulling them by the truth of the holy Scripture. And afterwards, repelling the iron, that is the barbarous and impious dominion, and then the brasse, that is, the authority of reviling against Prince and people, which it challengeth, hee shall cause the tumults of Secular usurped jurisdictions, and by consequence of processees and vexations to be hushed: hee shall cause the luxury of voluptuousnesse, and the pomps of vanity to cease: hee shall moderate the gold and silver, that is, the avarice and rapine of the Pope, and those higher members of the Court of *Rome*, and shall allow him the use of temporall things with due moderation.

Of the fall of Rome.

4 A certaine Chronicler writ a pretty while agoe, that this King should come of the house of *France*, and the race of *Charlemaigne*, according to that which was prophesied of him; Some say (saith he) that there is another common prophesie, that some of the Carolingians, that is of the race of King Charles, and blond royall, shall have an Emperour of France, by name Charles, who shall bee Prince and Monarch over Europe, and shall reforme the Church and State. Hee that is curious to see this prophesie may finde it amongst the vulgar revelations. Now that the Kings of *France* now reigning are descended from Charles the Great, the Popes themselves confesse; as Innocent the 3, who after hee had made mention of *Charlemaigne*, hee addeth, *Of whose race this King, viz. Philip Augustus, is descended*: and by consequence all the rest of *Hugh Capets* line. Whether this prophesie be true or no, I referre my selfe to other mens judgements. I will only say, that it seemes this reformation is destined to come from *France*, considering that in the greatest distempers of the Church, our Kings have ever put to their hands with the formost; that they have ever either wrought, or procured a reformation: That they have been instigated, and exhorted so to doe by the words and writings of the learned men of their times; (as wee shall elsewhere observe:) That they have preserved the liberties of the Church within their Kingdome, more than any besides: That at this instant all men of understanding cast their eyes upon them, as they who must be the restorers of the Church, and which have more ability to do it now than ever. When God hath appointed it to bee done, hee will touch their hearts.

Magister Fordanus in Chron. ubi loquitur de Frederico ultimo.

Innocent. 3. in c. Novit. Extra. de judic.



CHAP. XIV.

Of Cardinals.

Of abating the
number of
Cardinals.



After wee have done with the Pope, wee will speake a word of the Cardinals. The Emperour *Ferdinand* desired they might bee reduced to a smaller number; the Councell hath determined nothing about it, and yet nothing could be more justly demanded: that great company stands in great charges: they have need of many incomes to maintainethem. Hence mainly doe proceed an infinite company of abuses raining now adayes, which the Pope must dispense with to ease his coffers of so much; for there is no good reason hee should create such great Lords as they are to starve them for want of sustenance. Besides, the publique must ever be sensible of it; Christian Princes and their Kingdomes must pay deare for their folly, though they bee hardly able; and all must light upon their shoulders.

2 This is not the first time this reformation hath beene demanded, it is above an hundred and seventy yeers agoe since one of their own order complained of it; namely the reverend Cardinall of *Cambray* in his booke *De reformatione Ecclesie*, for amongst other wayes which hee proposeth for the lessening of those monstrous exactions which were made in his dayes in the Court of *Rome*, hee puts this for one, *The diminution of the number of Cardinals, that so their multitude may not bee so great and burdensome, as it hath hitherto beene: That it may not be objected to the Court of Rome: Thou hast multiplied thy people, but thou hast not growne greater; it would be expedient to take an order for the meanes of Cardinals, and other Clergy-men, so as it may not be lawfull for them to enjoy that prodigious and scandalous plurality of benefices: of which abuse the ancient Sages have complained, and amongst them William Bishop of Paris.*

3 It will not bee amisse to set downe also the complaint of a French man of our own, *Nicholas de Clemangis* in his tract *De ruinâ, & reparatione Ecclesie*, who after he hath exclaimed against their pride and vaine-glory, *But omitting their vanity (saith hee) who can sufficiently expresse the infinite and insatiable hunger of their covetousnesse? First of all, what greedinesse is this to hold such a number of repugnant and incompatible benefices? They are Monkes and Canons, Regulars and Seculars: Under the same habite they enjoy the rights, degrees, offices, and benefices of all religions, of all Orders, of all professions; not two or three, but ten, twenty, an hundred, two hundred; yea sometimes foure hundred, even to five hundred, and upwards: And those no petty ones, nor contemptible, but of the fattest and best, and how great a number soever they have of them, they are never content but would still have more. They are daily suing for new graces, new grants: Thus they catch up all the vacancies, and goe away with all. Hee speakes yet more of this point, but this must suffice for the present.*

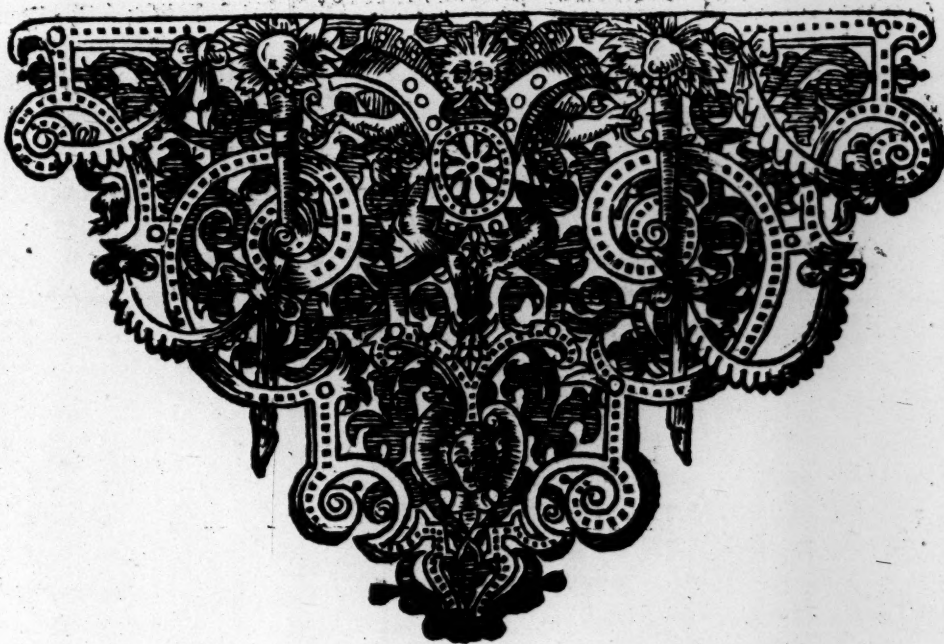
4 See then a reason of great consequence for the lessening of their number : and indeed it was one of the petitions which were put up at the Councell of *Constance* by all the Nations of Christendome, and and which was set in the fore-front, *Of the number, quality, and Countrey of the Lords Cardinals.*

Concil Constantiense Sess. 41.

5 Vpon which Pope *Martin* tooke time to deliberate ; just so have his successours done ever hithertowards ; and for our Fathers of *Trent*, it never troubles them.

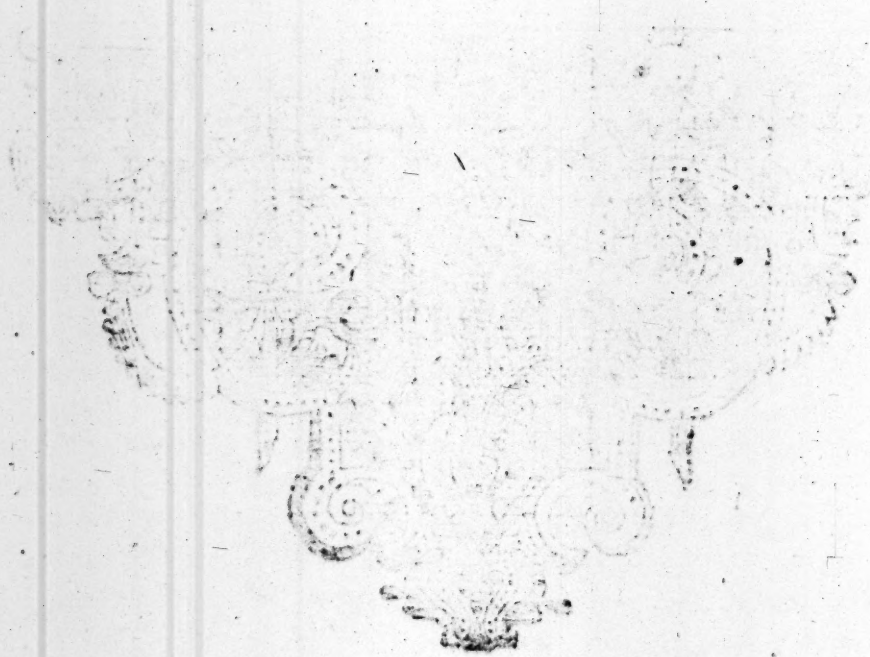


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A
R E V I E W
O F T H E C O U N C E L L
O F T R E N T .

B O O K E I I I .

C H A P . I .

Of the calling of Councils.



EE come now to the grievances which are found in the Decrees of this Council (for as for the Canons, wee meddle not with them) and observe in the first place, that whereas former Councils, at least such as were free and lawfully called, have alwayes cowed the Popes power, when it swelled into an excessive greatnesse, this hath run quite counter to the rest, ascribing unto him a power truly soveraigne : For the Pope now adayes hath absolute authority over all things in the Christian world. The power both in temporals

The power of calling Councils.

and spirituals is given unto him, not only over Kings and Emperours, but over Councils also : So that when he shall please to wrong any man, there is no meanes left to resist him. Wee shall make this appeare so plaine, that there shall bee no occasion of further doubting, by setting downe here all the Decrees of the Council which concerne this point.

2 First, it is to bee observed that Pope Julius the 3, in his Bull, December the 15, 1551, ingrosseth to himselfe the sole right and authority of calling Councils. Wee (saith hee) to whom it belongs, as being now Pope, to signifie

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and

Authority of
calling Coun-
cels usurped by
the Pope.

and direct Generall Councils. This is the Bull wherein he signified the continuation of the Council of Trent, which is inserted amongst the Actes of it.

3 But this is not all yet: for after hee hath declared that he will bee president in the Council, for the further manifestation of his high and soveraigne power hee addes, *Ordayning nevertheless that whasoever any man, by what authority soever, shall attempt to the contrary, whether he know of this or not, shall be void and of no effect. Wherefore it shall not be lawfull for any man in the world to breake or infringe this present Act of our advice, pleasure, innovation, and decrees, or out of an audacious rashnesse to contradict it.* All these brags and bravado's were approved by the Fathers of that Council; inasmuch as the Council, which had kept Holiday for full foure yeers, and beene adjourned to Bononia by Paul the 3, was brought backe againe to Trent, by virtue of this Bull; so that the Bishops there obeyed the Pope sans contradiction.

Session. ult. in
fmo.

4 So then hee challengeth the power of Convocation exclusively to all others, wherein he is avowed by the Council; nay it is the Council it selfe which gives him this prerogative: For after all the resolutions it made both about faith and discipline, it addes; *If it so fall out that any thing herein contained, stand in need of further declaration or determination, besides other remedies appointed in this Council, the Holy Synod trusts that most blessed Bishop of Rome will take order that the necessities of the Provinces shall be provided for to Gods glory and the peace of the Church; either by sending for such (out of those Provinces especially where such difficulty shall arise) as hee shall thinke fit to negotiate such a businesse; or by holding a Generall Council if hee thinke it necessary; or any other more commodious way as hee thinks good.*

5 As for the translation of the Council to Bonony, indeed the Cardinall de Monte, President for the Pope, did the Council the honour to let them consult about it the 10 of March, 1547, as appeares by the 8 Session: But this was after an absolute and peremptory injunction, which the same Pope had formerly made, as appeares in his Bull set out in March, 1544. Where he speaks in this manner; *Of our own proper motion, certaine knowledge, and full power Apostolicall, with advice and consent correspondent, we give you full and absolute power by authority Apostolique, by the tenure of these Presents (hee speaks to his Legats) to transerre and remove the said Council from Trent to some such other City, as you shall thinke fit; and to suppress and dissolve it in the said City of Trent; and to prohibite the Prelates and other persons of the said Council to proceed any further at the said Trent, upon paine of Ecclesiasticall censures and punishments; and to cite the said Prelates, and other persons of the Council unto that city whither it shall bee transferred, upon paine of perjury, and other punishments expressed in the letters of Convocation.*

6 See here, good weighty words which in a most extraordinary way doe crush the authority of the Council, yea even inslave and subject it to the Pope. And yet the Council is so farre from complaining, that on the contrary it professeth that it consented to this translation, in consideration that it was done by the Popes command: For hearken how they speake of it in the beginning of the ninth Session holden the 21 of Aprile 1548; *This holy Oecumenicall Council, &c. considering that upon the 11 of March this present yeere, in a generall publique Session holden in the said city of Trent, at the accustomed place, all things requisite to bee done being first done after the usual fashion, upon some earnest, urgent and lawfull reasons, and by the intervening authority of the Holy Apostolique See, granted in speciall manner to the said right Reverend Presidents, decreed and ordained, &c.* They expresse it as well as they can, for feare least some body should bee so farre mistaken, as to thinke the translation was made upon the Councils owne motion; to the prejudice of

of the Popes authority; for they would have taken that in dudgeon.

Councils lawfully called and not by the Pope.

Ca. 1, 2, 4, 5, 6. dist. 17.

7 Let us now see whether the Pope challengeth this right, which is confirmed unto him by this Council, by usurpation onely, or whether it doe indeed justly belong unto him. If wee will take the Popes own word for it, the question will bee quickly decided; for they affirme that to make such a Convocation belongs to none but them. Their Doctours and Disciples have so fortified this proposition, that they have stopped all passages, and not left so much as one hole open, whereby there is any possibility of surprizing it. Some few have beene so reasonable as that they have made some exceptions; as in case the Pope refuse to call the Council, or in case he be an heretique, or in case the question be about some fact of his owne, or about his condemnation: Some are of opinion that then the Emperour is to undertake it; others, that it belongs to the Cardinals; others, to the Council. But those who were more deeply ingaged, or spurred on by fairer hopes and goodly benefices, doe not leave ought open, not one chinke; yea they come so farre as to say that those Councils which were not called by the Pope are bastards, & illegitimate, void and of no effect: condemning by this opinion those foure Generall Councils which Gregory the Great did reverence as the foure Gospels; besides, a great many more which were either holden without the Pope, or at least which were not of his calling, or where he was not President.

8 True it is, that some others which are more subtle, to wave this objection put in this alternative [*Or consented unto, and approved by him*] whereby they give us to understand, that without this approbation all those ancient Councils should be either hereticall or without effect; alwayes putting the Popes authority above a Councils. I know very well that all learned men and truly religious soules doe abhorre this: But seeing our Sophisters nowadays doe here bring their owne dreames and fancies to make a cleare case seeme doubtfull; and seeing they cannot deny but the Emperours called those Councils, they runne to the Popes consent or authority, maintaing that it was ever interposed. I shall prove the contrary by the Acts of ancient Councils; by the testimonie of Histories, and by the Popes owne confessions, or their Decrees.

9 The Council of Nice was called by the Emperour Constantine, by virtue of his Edict; as is set downe in the beginning of the Acts thereof, Chapter the 5. *The Emperour seeing there was some trouble in the Church, called a Generall Council, exhorting by his letters all Bishops to repaire unto Nice, a City of Bithynia: The same is affirmed by Eusebius, Theodoret, Socrates, Zonaras, Ruffin and many others. Whence wee discover his forgery that framed the Epilogue of the second Council of Rome; In the time (saith he) of Pope Sylvester and Constantine the Emperour, there was a great Council holden at Nice in Bithynia, where three hundred and eighteen Catholique Bishops were regularly assembled by the call and command of Pope Sylvester. If this bee true, the Acts of that Council are false, and so many ancient Authours all lyars which ascribe the Convocation of it to Constantine.*

Eusebius de vita Constant. l. 3 c. 6.
Theodoret. l. 1. c. 7.
Ruffin l. 10. c. 1.
Hist. tripartit. l. 1. c. ult. l. 2. c. 9. l. 3. l. 10. cap. 2. 3.
Zonaras to. 3. V. Tom. 1. Concil.
V. Isidori decret. Parisiis impress. ann. 1524. p. 79.
Et ann. 1539. p. 74.
Et confer cum collectione Conciliorum Generalium Edit. Colon. 1537. p. 314.
Et ann. 1551.

10 And yet this goodly Epilogue is foisted in among the Councils, as if it were an ancient piece, whereas the authour of it is but a modern man: for he hath enlarged Isidores prefaces, putting in many things of his owne head; as in that of the Council of Ephesus: For Isidore having said simply, *At which Council the most happy Cyril Bishop of Alexandria was president: This fellow puts in of his owne, In stead of Pope Celestine: Which is detected by comparing Isidores Decree printed at Paris ann. 1524, and 1537, with the collection of Generall Councils printed at Cullen ann. 1537, and 1551. Bellarmine gives us ground enough to know it also, inasmuch as he never maketh use of it. It is true, he maintaines that that Council was called by the Popes coin-*

Councils called by the Emperour Constantine.

sent: which he strives to prove by the testimony of the Pope himselfe, namely of *Damasus* in his pontificale. Wherein he behaves himselfe so mildly, that he may justly bee accused of prevarication, seeing that some copies have it *praecepto*, and not *consensu*: so that he might maintaine by the authority of *Damasus*, that *Constantine* called it by the Popes command: But seeing hee is not willing to undertake so much, let us rest content with what hee proposeth vs

11 The Nicene Councell (saith *Damasus*) was holden in *Sylvesters* time with his consent. So was it with the consent of other Bishops either tacite or expresse. But if *Bellarmin* will referre this to such a consent as was necessary for the calling, hee had need of another prooffe. Hee hath recourse unto the Acts of the sixth Generall Councell holden at *Constantinople*, where it is said in the tenth action, That *Constantine the Emperour* and *Pope Sylvester* assembled the Nicene Synod. But these words which are spoken only upon the by, and by some men which treat about another matter, ought not to have more force than the authority of so many Historians, some of which lived at the same time; yea than the very Acts of the Councell it selfe, where it is plainly said that it was called by *Constantine*, without any mention of *Sylvester*. The testimony of *Ruffin* will not avale him ought, when hee saith that *Constantine* called it by the advice of the Clergy: for suppose the Pope gave his advice amongst the rest, yet for all that there is nothing that concernes him in particular; and to limit those words to the Popes advice alone, were to make that authour speake what hee never thought; they should rather bee referred to the Bishop of *Alexandria*, who entreated of the Emperour, and obtained the calling of that Councell, as *Epiphanius* witnesseth.

Theodoret. l. 5.
c. 6

12 The second Generall Councell was called by *Theodosius* in the City of *Constantinople*: Being come to the Empire (saith *Theodoret*, speaking of him) hee purposed in his minde above all things to provide for the unity of the Church, and to that end commanded all Bishops, of what Bishopricke soever, to repaire to *Constantinople*. The letters of that Councell written to the same Emperour are sufficient prooffe hereof; for after they have thanked God for giving them *Theodosius* for their Emperour, they addo, Since the time of our assembly at *Constantinople* by your command &c. And afterwards follow the Canons of the Council, with this inscription, These are the things which were decreed by the Bishops that came to *Constantinople* out of divers Countreies, being called thither by *Theodosius* the Emperour. *Zonaras* confirms it, By the Emperours command (saith hee) was the second Councell proclaimed, and the holy Fathers assembled at *Constantinople*, &c.

Exat. hac. epist.
in libello con-
stitutonum
Synodaliū.
Tom. 1. Concil.

13 In all these places there is no talking of the Popes consent. *Bellarmin* opposeth the letters which the Fathers of this Council have writ to Pope *Damasus*, where they say themselves that they were assembled at *Constantinople*, by command of those letters which hee sent to the Emperour: but for this point hee hath not well understood it. Wee shall make it appeare by the very text of that Epistle, how the sense which hee puts upon it, is farre from the words and contrary to the truth. First see here the inscription of it, To our most honoured Lords, most reverend and most devout Fathers and associates, *Damasus*, *Ambrose*, *Britton*, *Valerian*, *Ascholius*, *Anemius*, *Basil*, and other holy Bishops assembled in the great City *Rome*, the holy Senate of Orthodoxe Bishops assembled in the great City *Constantinople*, send greeting in the Lord. And a little after the beginning of the Epistle, it is said, But after that you, proceeding by the will of God, to the calling of the Synod of *Rome*, of your brotherly charity called us thither as your fellow members, by virtue of the letters of the most devout Emperour, that wee alone having endured the afflictions, you might not now reigne without us under the peace of the most pious Emperour, but receive us rather

rather into the society of such a Kingdome, according to the word of the Apostle, wee have all earnestly desired (if it were possible) to apply our selves to your desire, or rather to the present urgency, leaving our owne Churches; but considering how by this meane those that were restored againe would be abandoned, and many of us could not doe it, by reason that wee referred to Constantinople, upon those letters sent the last yeare, by your Reverences, to the most holy Emperour Theodosius, after the holding the Councell of Aquileia, &c. for this reason and others such like, seeing wee cannot all come, wee have intreated our brethren and companions Syriacus, Eusebius and Priscian Bishops, to take so much paines as to come unto you, to let you understand the desire wee have of the union. This Epistle is extant at large, in Theodoret, and the Acts of the Councell of Constantinople.

Councils called by the Emperour Theodosius.

Theod. l. 5. c. 9.

14 Now wee must observe divers things which will serve us for an answer. First, that these letters of the Synod of Constantinople are not directed to the Pope alone, but to the whole Councell assembled at Rome, as is plaine from the inscription and tenure of them. Secondly, that those other letters which they mention, were not sent by Pope Damasus to the Emperour Theodosius (as Bellarmine would have it) but by the Councell of Aquileia, where the Pope was not present. Thirdly, that by those letters they neither enioyne nor command the calling of a Councell, as he dreames, but only they acquaint the Emperour Theodosius, as also the Emperours Gratian and Valentinian, with the resolution which they had taken in their Councell, about condemning the doctrine of two old men Palladius and Secundianus, and some other points. It is very true that they intreat them to cause them proceed to judgement and condemnation of them, and some other of the same sect, which gave occasion to the Emperour Theodosius to call the Councell of Constantinople.

15 For full prooffe of all this, you need but read it in the letters which the Councell of Aquileia sent to the said Emperours; the inscription whereof is this. To the most milde Christian Emperours, and most happy Princes, Gratian, Valentinian and Theodosius, the holy Councell assembled at Aquileia sendeth greeting. After the narration of the proceedings therein, and the designs which the Arrian Bishops had there, they say in fine, We doe abhorre (most milde Princes) such execrable sacriledges, and such wicked doctrines; and to the end that they may deceive people no more, wee have thought good that they bee degraded from their Priesthood, and beseech your Majesties to cause such patrons of impiety be driven out of the Church, and make them be summoned before competent Judges. They further intreat them to hinder and forbid the followers of Photius from making of assemblies.

Extat inter
Acta Concilii
Aquileiensis
Tom. 1. Const.

16 Any man may now judge whether these letters containe any command to the Emperour for calling a Councell, and whether the Pope made any such command, who was not present in that Councell, neither in person nor by proxie. Bellarmine hath taken up the error of one of the Latine translators of Theodoret who renders these words [*in rāi παρακατα*] *mandata vestrorum literarum*, [by command of your letters] in stead of, *per vestras literas*, [by reason of your letters] in as much as these letters gave occasion to the Emperour Theodosius to call the Councell of Constantinople, but not by the Popes command: Yea the Councell of Constantinople was so farre from being called by the Emperour upon the Popes command, that on the contrary the Pope summons the Easterne Bishops to the Councell of Rome, by virtue of the Emperours letters, as the forecited letters of the Councell of Constantinople runne.

17 Bellarmine brings also the authority of the sixth General Councell into under correction, hee hath foisted in a little too much of his owne; for it is

The third General Council
not called by
the Pope.

said simply, Macedonius *denied the divinity of the Holy Ghost, but Theodosius and Damasus opposed him stoutly*. Bellarmine addes, by the second Synod. Hee might well have opposed him before the Synod, yea, in the Synod, by meanes of his Legats, as some other Bishops did; hee is named onely as the foreman of them; but it follows not, therefore that the Councell was called by him or by his authority.

Socrates l. 7.
c. 34.

Evagrius l. 1.
c. 3.

18 The third General Council was called at *Ephesus* by the Emperour *Theodosius*: the Historians that speak of it make no mention at all of the Popes consent. I will set downe the places, *The Bishops* (saith *Socrates*) *came together from all parts, and met at Ephesus by the Emperours command*. Nestorius (saith *Evagrius*) *would not submit to the advise of Cyrill and Celestine Bishops of old Rome, but belched out his venome against the Church, and demanded that a Councell might be assembled at Ephesus by the authority of Theodosius the younger, who at that time governed the Easterne Empire*: Wherefore letters were dispatcht from the Emperour unto Cyrill and the rest of the Bishops.

Niceph. l. 14.
c. 34.

V. Libel. Constit. Synodal.
Tom. 1. Concil.
Et Acta Concil.
Ephesini.

19 *Theodosius* (saith *Nicephorus*) *commanded by his letters Imperiall the Bishops of all places to come to Ephesus, setting them a day against the feast of Pentecost*. This Councell of *Ephesus* put this inscription to a letter written to the Synod of *Pamphylia*, *The holy Synod assembled at Ephesus by the grace of God and good pleasure of the most devout Kings, to the holy Synod of Pamphylia, greeting*. And in another Act afterwards, *The Synod by the grace of God, and by virtue of the Edict of our most devout Kings, lovers of Christ, assembled in the Metropolitan City of Ephesus, &c*. The Kings which these Acts speak of are the Emperours *Theodosius* and *Valentinian*.

20 But there is no need of these authorities, considering that wee have the Acts of that Councell yet extant, which may cleare the doubt that might be raised. If there be one single word in them whence it may appeare that *Theodosius* required Bpope *Celestines* consent to the calling of that Councell, then *Bellarmino* shall win the day; but withall if there bee nothing spoken of it, however the Acts are very large, he shall give us leave not to beleieve it. Those Acts speak in diverse places of the convocation, but so as it is alwayes ascribed to the Emperours *Theodosius* and *Valentinian* without any mention of the Pope.

21 The 25 Chapter of the first Tome containes letters of the same Emperours sent unto *Cyrill* to command him to come, but no newes of the Pope. In the first Chapter of the second Tome, it is said, *The Synod was assembled in the Metropolitan City of Ephesus, by virtue of the Emperours Decree*; Not a word of the Pope. In the same Chapter it is commanded, *Let the Edict which was sent by the most pious and most Christian Emperours be read, and give light like a torch unto such things as wee now beginne to treat of*. The 17 Chapter of the second Tome containes those letters which the Fathers of that Councell writ unto the said Emperours, whereby they certifie them of the coming of the Popes Legats; and mentioning the Councell they adde, *Which your majesties commanded to meet at Ephesus*. In the 18 Chapter of the second Tome *Cyrill* saith, in an Epistle of his to certaine Bishops, *The time for holding the Synod was appointed by the most devout Emperours, to bee upon the day of Pentecost; so did their first letters, by which wee are summoned thither, command*. The 19 Chapter of the same Tome containes a certaine writing of the Clergy of *Constantinople*, which beginnes thus; *The sacred Synod assembled at Ephesus by virtue of the Edict of the most devout, and most Christian Emperours, having found that the enemy of Christ continues obstinate in his perverse opinion, hath deprived him of his orders, and degraded him*. There are many other places in those same Acts, where that convocation is spoken of without ever ascribing it to the Pope; nor part, nor quart (as they say,) and yet the contrary is debated amongst us.

22 But

22 But (saith *Bellarmino*) *Cyrril* was in that Council as the Popes Legat; a certaine argument that it was not called without his consent. We deny both the one and the other: For you must know that the *Nestorian* heresie was condemned in a Council holden at *Rome* by Pope *Celestine*; and forasmuch as *Cyrril* Patriarch of *Alexandria*, the professed enemy of *Nestorius* Patriarch of *Constantinople*, had formerly written unto Pope *Celestine* about it; the said *Celestine* certified him of the resolution which had past upon it, and intreated him withall that hee would be pleased in his stead, to cause the sentence of the Synod of *Rome* to be put in execution.

Bellarmino
put-offs refused

23 All this was done before there was any speech of the Council of *Ephesus*, as is plaine out of the letters of that Council, written to the Emperours; the words are these; *Celestine* the most holy Bishop of Great *Rome*, had signified the judgement which was past by him and his before any Synod was assembled at *Ephesus*, and intrusted in his stead *Cyrril* the most holy and religious Bishop of *Alexandria*, with the putting of that in execution which was determined at *Rome*. So then hee was not sent by the Pope to supply his place at the Council of *Ephesus*, which is properly to bee a Legate. Nor had hee any expresse charge from the Pope to supply his place in that Council, for there is no mention at all of any such command. Wee conclude therefore that it cannot bee inferred from thence, that there was any particular consent of the Pope in the calling of that Council. Wee doe not yet meddle with the Presidency of *Cyrril*, that we reserve for another place.

24 This notwithstanding *Bellarmino* urgeth some authours for prooffe of his assertion, namely *Evagrius*, *Photius*, and *Celestine* himselfe in his Epistle. They all say that *Celestine* by his letters did substitute *Cyrril* in his place. It is true; but it is true withall, that when those letters were written he spoke not of the Council of *Ephesus*, but of that of *Alexandria*, which was holden by *Cyrril*. Besides, the Pope sent his Legats to *Ephesus*, in number three, to supply his place; which he would never have done if hee had taken *Cyrril* to have been there in his stead. It is true moreover, that *Cyrril*, who would have had it so in opposition to *Nestorius*, to gaine himselfe the more authority at *Ephesus*, during the time of that Council, did serve himselfe of that substitution which had beene formerly granted unto him. But this makes nothing at all for the Popes consent to the calling of the Council, which is the point now in question.

25 *Bellarmino* flies to the authority of a Chronicler to prove the Popes consent. *Prosper* (saith he) shewes in his Chronicle, that the Council of *Ephesus* was holden by the industry of *Cyrril*, and the authority of *Celestine*. Under correction hee never thought so: The yeere 431 speaking of the heresie of *Nestorius*, who taught that our Saviour Christ was borne of the Virgin *Mary*, not God, but meere man. This impiety (saith hee) was principally opposed by the industry of *Cyrril* Bishop of *Alexandria*, and the authority of Pope *Celestine*. There is no mention of the Council of *Ephesus*. But at the yeere 434 in these words, The Synod being assembled at *Ephesus*, of above 200 Bishops, *Nestorius* was there condemned, and that heresie which tooke the name from him. There is nothing there for the Popes consent. *Martinus Polonus* would have afforded him a more favourable testimony, for hee saith that the Synod of *Ephesus* was assembled by the commandement of Pope *Celestine* and *Theodosius* the younger. But what can an upstart Historian, who writ not till 250 yeeres afterwards, testify against so many Acts? *Bellarmino* knew that well enough.

Martinus Polonus
in *Celestine*
sub ann. 428.

26 Nor doe wee finde that the Emperours *Valentinian* and *Martian* asked the consent of Pope *Leo* for the calling of the Council of *Chalcedon*. In the first Act whereof it is said, That a Synod was held in *Chalcedon*, the *Metropolitane*

Act. 1. Concil.
Chalc. Tom. 1.
Concil.

The Council
of Chalcedon
not called by
the Pope.

L 3. C. de sum.
trim.

Extat. hec
epist inter epist
preambulares
Concil. Chal.
ced. Tom. 2.
Concil. p. 126.

litane of Bithinia, by the Decree of the most devout and faithfull Emperours, Valentinian and Martian. The Emperour *Martian* witnesseth as much himselfe in his constitution for the confirmation of the Council ; For (saith he) *who-soever dare call in question, and publicly dispute those things which have beene once judged and well determined, hee wrongs the reverend Synod : forasmuch as those things which were agreed upon concerning the Christian faith, by the Clergy assembled in Chalcedon, by our command were determined according to Apostolicall expositions, &c. And Martinus Polonus saith, The fourth Synod of Chalcedon, consisting of six hundred and thirty Bishops, was holden by the industry of Pope Leo, and the command of the Emperour Martian. No body denyes but that Council was assembled by the industry of Leo, who was a soliciter for it ; but those Emperours were so farre from desiring his authority and consent, that on the contrary hee used earnest prayets to Theodosius for the obtaining of that Council ; bestowing tears to that end, which hee said were shed for his Clergy : using withall another mans favour in his suit.*

27 After the death of *Theodosius*, *Valentinian* and *Martian* were more favourable unto him : they granted him a Council after they were petitioned by his Ambassadors. *Martian* writ a very honett letter unto him, wherof *Bellarmino* now serves himself to prove that the Popes consent is requisite to the calling of Councils, *The Emperour* (saith hee) *intreats the Pope to come and hold the Council.* There is no such intreaty, but only these words, *It remaines, that, if it please your Holynesse to come into those parts to celebrate the Council, you would be pleased to doe so out of religious affection.* The Pope by his letters, and by his Legats desired two things ; that a Council might be kept, and that it might bee in *Italy* : the first he obtained, the second was denied him. True it is that *Martian* qualified the denyall with faire words, as that, *If hee would not be present at it, hee would tell them so, to the end that they might call the Bishops unto that place which should be pitcht upon, to provide for the Christian religion, and the Catholique faith, by their decision ; as your Holynesse shall determine according to Ecclesiasticall constitutions.* I finde no other consent to the calling of it, but such as stands with a petitioner. Indeed seeing he desired it, and that in such manner as we have said, it follows that he consented unto it ; but diverse other Bishops have the same plea that he hath, in asmuch as divers times they became petitioners to the Emperours for the holding of Councils.

28 *Bellarmino* urgeth a letter written by certaine Bishops of *Bursia*, wherein they say, *That many holy Bishops are assembled in Chalcedon, by the command of Pope Leo.* But it is a hard case that he would rather trust those poore *ignoramus's* whom the distance of place and inexperience of affaires doth in some sort excuse, than the truth of the Acts. Considering withall that these Bishops speake more in this point than hee would have them ; for he standeth only for the Popes consent, and they ascribe unto him the command. Why doth not hee speake as they doe ? If they be mistaken in the command why should we beleve them about the consent ? especially seeing they never speake of it ?

29 Afterwards he descends to domestique testimonies ; as to Pope *Gelasius* his Epistle to the *Dardan* Bishops : where he saith, *That the Apostolique See by her sole authority, decreed that the Council of Chalcedon should bee holden.* Decreed it indeed, but with prayers, intreaties, and teares, with much passionate importunity to the Emperours. See wherein that authority consisteth : see how the Popes would make us beleve it !

30 The same question is concerning the Council of *Sardis* ; to the convocation whereof *Bellarmino* pretends that the Popes consent was required, and that by Emperours themselves : Hee takes a great deal of paines to fight against

gainst the truth, which hee hath obscured, but not extinguished. Wee can easily evidence to the contrary; Then (saith *Socrates*) there was a Generall Council appointed, that all should repaire to *Sardis*, a City in *Illyrium*, and that by the will and pleasure of the two Emperours; the one by his letters requiring it; the other, who governed in the East, freely condescending unto it. The Bishops of the same Council in their letters to all the Churches speake on this manner; *At last by the grace of God, the most mitid Emperours have assembled this holy Synod out of diuers Cities and Provinces, and haue suffered it to bee kept in the City of Sardis.* Let us heare what *Bellarmino* urgeth to the contrary: hee brings a passage out of *Socrates*, where he saith, That the Easterne Bishops lay the blame of their absence from the Council of *Sardis* upon Pope *Julius*, because the time allotted them for their coming was too short. Whence it follows (saith hee) that the Council was not called by the Emperour alone, but by Pope *Julius* also, yea and that principally by him. But hee mistakes himselfe in his inference; Pope *Julius* was deeply engaged for *Athanasius*, hee had written in his behalfe certaine angry letters to the Orientall Bishops assembled at *Antioch*; gaining nothing at their hands, hee addressed himselfe to the Emperour *Constans*, and perswaded him to write to his brother *Constantius*, to send certaine Bishops to *Rome* to answer for their rejection of *Paul* and *Athanasius*. Lastly, after some other accidents which befell about that point, it was decreed by the will and pleasure of the two Emperours, that the Bishops of both sides should meet at a day appointed in *Sardis*, a City of *Illyrium*. All that wee say is related by *Sozomen*, without any intermixing of ought of our owne. So that it is not without good reason that the Easterne Bishops imputed the shortnesse of the time unto the Pope, seeing they had occasion to beleewe that hee had persecuted and obtained the holding of that Council without allowing them sufficient space to come thither.

Councils called by Emperours.

Extat hanc epistolam in libello Constitutionis Synodali 10. 2. Concil.

Et in fragmentis publicanis. Et apud Theodoret. 1. 2. c. 8. Et apud Athanasium, apolog. 2.

Sozomen. 1. 3. cap. 9. & 10.

CHAP. II.

Other examples to prove that the Popes consent was not required to the calling of Councils.



Ere *Bellarmino* stops, and speakes not of other Councils which were holden afterwards: it is true that he seems to dissipate and dispell all that we have replied concerning the former Councils with one puffe: that is, that for foure or five Councils which the Emperours called, the Popes have called a dozen. Hee puts us upon the necessity of urging other examples over and above the former. If any of those with whom *Bellarmino* bickers, had delivered a thing so exorbitant, and remote from all truth, hee would have given them the ly, and hooted at them. Let us shew the contrary without passion, without calumny: for these are things mis-beseeming learned men, and especially those that meddle in these matters.

The fifth Generall Council holden at *Constantinople*, under the Emperour *Justinian*, was called by him without the Popes consent. This is proved out of his

Eight General Councils called by Emperours.

Justinian. in epist. ad Episcopos Synodi Constantin. Tom. 3. Concil.

Niceph. l. 17. c. 27.

Zonaras Tom. 3. in Constantin.

4. Martinus Polonus in Constantin.

lib. 4. Et Justiniano 2. Et in Agathone &

sub ann. 690, 678, 687.

Canone Habeborū dist. 19.

Canone, Sexta Synodus. dist. eadem.

Synodus Nic. 2. in princ. Tom. 3. Concil. p. 452.

Tarasius in Epist. ad Joannem presbyt. tom. 3. Concil. p. 549.

Zonaras tom. 3. in Basilio Imp.

Nicolaus Cusanus, de Concordia Cath. l. 2. cap. 2.

Theodoret. l. 1. c. 28.

his owne letters, *Wee have summoned you (saith hee) unto the royall City, exhorting you in generall, that when you are come thither, you would declare your opinion and your minds about these matters.* Nicephorus witnesseth as much, *The Emperour Justinian (saith hee) called the fifth Oecumenicall Councell, and cited the Bishops of all Churches unto it upon this occasion.*

3 The sixth General Council was called at Constantinople by the Emperour Constantine the 4, as Zonaras testifieth; *'Constantine (saith hee) being an Orthodox Prince, laboured to unite the Churches, that were at oddes by reason of the heresie of the Monothelites, who sprang up after the reigne of Heraclius, his great Grand-father: whereupon he called a Councell at Constantinople. Martinus Polonus ascribes the Convocation of that Councell to the Emperour Constantine; and speaking of Pope Agatho, hee saith nothing of him, but onely that the sixth Synod was holden in his time.*

4 Hee saith as much of the first Nicene, when he speaks of Constantine the Great, and Pope Sylvester. But for the Popes consent there is no newes at all. The Popes themselves witness this truth in their Decree compiled by Gratian. For it is said in the sixth distinction; *The 6 holy Synod after the publication of the sentence against the Monothelites, the Emperour that called it dying presently after, &c.* And in another place, *The sixth General Councell was holden at Constantinople, in the time of Pope Agatho, by the care and diligence of the Emperour Constantine who was there in person.* The Popes verily have done themselves a great deal of wrong, that they declared not that Convocation to bee made by their authority; for it is not their fashion to forfeit their right for want of demanding, or of publishing it.

5 The Acts of the second Nicene, which is the seventh General Council, tell how it was called by Constantine, and his Mother Irene. *The holy and General Synod assembled by the pious Decree of those Emperours, in the most famous City of Nice, the Metropolis of Bithinia.* And this is confirmed by that letter which Tarasius Patriarch of Constantinople, writ unto a certaine Priest, inserted in the Acts of the Councell; and by that which Zonaras speaks of it.

6 The eighth General Councell, which is the sixth of Constantinople, was called also by the Emperour Basil, witnesseth Zonaras: *Basil (saith hee) come into the great Church upon a festivall day, to receive the unbloudy sacrifice, was hindered by Photius the Patriarch, who called him murderer: but he being incensed with this repulse, calling a Councell, cast Photius out of the Church.*

7 Cardinall Cusan freely confesseth that the Emperours had anciently this right of calling Councils: Yea he affirmeth that the eighth General (whereof we have spoken) were called by them, *'Howbeit (saith hee) wee read that the General Councils were oftimes called by the Emperours, yea all the eight, as may bee proved out of their Acts; yet notwithstanding in those Councils the Pope had alwayes the authority of presiding. So then in his opinion the Pope had no share in the calling; that's all which we demand for the present. As for the presidence that's another matter; wee will speake of it anon.*

8 This is no small thing that all the eight General Councils were called by the Emperours. I say the eight General, which are acknowledged to be such by the Pope: But we will finde more yet: *Theodoret speaking of Athanasius's adversaries with; 'Hee perswaded Constantine the Emperour to call a Councell at Cesarea in Palestine; and to command that Athanasius should bee arraigned: but St. Athanasius knowing the malice of his Judges, went not to the Councell. He afterwards addes, 'Hee suspecting that Athanasius would not appeare in Cesarea, by reason, I suppose, of the Bishop of that place,*

place, commanded that the Councell should meet at Tyre. *Eusebius* in the life of *Constantine*, speaking of the same Synod of Tyre saith, *The Emperour called together a great company of Bishops out of Egypt, Africa, Asia, and Europe, and opposed them as an army of God against that enemy of mankind.*

Popes petitioners for Councils.

9 The Acts of the first Councell of *Carthage* testify, that it was called by *Constantine*, where *Crates* the Bishop of that City, speaketh thus: 'Let us thanke God that he hath inspired the religious Emperour *Constantine*, with a desire of the union of the Church, and to send *Paul* and *Macarius*, servants of God, as his ministers in this holy worke: to the end that wee may hold Councils in divers Provinces.

Eusebius in vita Const. l. 4.

V. Concil. Carthag. l. in princ. tom. 1. Concil. p. 672.

10 *Theodoret*, speaking of the Councell of *Antioch*; *About that time* (saith he) *Constantine making his abode at Antioch, called and assembled the Bishops together againe.*

Theodoret. l. 2. c. 21.

11 The Councell of *Aquileia* writes thus unto the Emperours, *Gratian* and *Valentinian*; 'Wee give you thanks, most milde Princes, that, for the taking away of all quarrels, you have taken the paines to assemble an Ecclesiasticall Councell, and of your bounty have done this honour unto the Bishops, that such as would might come, and no man bee compelled.

V. Gesta Cons. Aquil. eiusdem. tom. 1. Concil. p. 717.

12 About the yeere 412, *The Emperours Honorius and Theodosius the younger, called a Councell at Carthage, consisting of 313 Bishops, for the condemning of the Pelagians*; so *Martinus Polonus*. And speaking of Pope *Innocent* the first, who lived at the same time, he saith indeed that he condemned *Pelagius*, but it was not in that Councell; whereto he neither gave consent for the calling of it, nor had voice in the decision.

Martinus Polonus in Honorio, sub ann. 412.

13 Vnder the same Emperours there was a disputation and conference holden in the same City betwixt the Catholique Bishops and the *Donatists*, where *St. Austin* was present, and where all the Bishops of *Africa*, both on the one side and the other were summoned to appeare. *Flavius Marcellinus* one of the Emperours officers, was made Judge there; to whom those who appointed the place of meeting direct these words, 'Your greatnesse hath sent us through the Provinces according to the Emperours command, and hath dispatched his edicts & injunctions through all *Africa*; to the intent that all Bishops, as well Catholiques as *Donatists*, should come unto this conference within foure months.

V. Gesta Collat. Carthag. circa princip.

14 The Fathers of the Generall Councell at *Constantinople* in *Trullo*, speake thus unto the Emperour *Iustinian* the second, 'You ordained that this holy Generall Councell, elected by the divine providence, should be called together. And anon, 'Vpon this occasion we have written these holy Canons, being assembled together in this Imperiall, and religious City by your pieties speciall command.

V. Acta sexta Synodi, in Trullo apud Balsamon.

15 The Acts of the fourth Councell at *Rome* assembled vnder Pope *Symmachus*, shew that it was called by the command of King *Theodoric*, then ruler in *Italy*. *This holy Synod assembled at Rome out of divers Nations by the command of King Theodoric, &c.*

In prin. Romanae Synodi 4. tom. 2. Con. p. 472.

16 Those of the Synod of *Aix* the Chappell in *Germany*, holden under the Emperour *Lewes* in the yeere 816, speake in this sort, *Whereas the most Christian and glorious Emperour Lewes hath called a holy and Generall Councell at Aix, &c.* He that writ the continuation of the History of *Eutropius*, speaking of the Emperour *Lewes* the second, the sonne of *Lotharius*, saith, 'The royal Majestie opposed the Apostolicall dignity, objecting to the Pope the ancient decrees of Fathers, whereby it is not lawfull for a Prelate to excommunicate a Bishop without a Synod: which Councell ought not to be called by the Pope, but by the Emperour. All this is spoken in favour of *John* Archbishop of *Ravenna* whom Pope *Nicholas* the first had excommunicated.

Tom. 3. Concil. p. 820. Author. appendicis ad Eutrop.

Councils called by the Emperour.

Platina in Joanne 12. Idem in Gregorio 6.

Martinus Polonus sub ann. 1067.

Radenicus l. 2. de gestis Fred. c. 54. Idem lib. 2. c. 64.

Jean le Maire en la seconde partie du schisme.

Theodoret. l. 1. c. 24.

Niceph. hist. l. 14 c. 34.

V. Tom. 1. 22. Concil. Ephes. c. 25.

Can. Sancta Romana. dist 15.

17 The Emperour *Otho the Great*, after hee had admonished Pope *John the 12*, and saw that hee would not amend his scandalous life, Called a Council (saith *Platina*) making all the Bishops of Italy meet to condemne that wicked person. The Emperour *Henry the 3* (saith the same *Platina*) having called a Council after hee had there compelled *Bennet the 9*, *Sylvester the 3*, and *Gregory the 6*, as three most hideous monsters to renounce the Popedom, he created *Sindergus Bishop of Bamberg* Pope, who was afterwards called *Clement the 2*. This was done in the year 1047, The Emperour *Henry the 3*, having called a Council at *Wormes*, consisting of 24 Bishops, and divers noble men commanded that all the decrees of Pope *Gregory the 7* should be cassed and cancelled.

18 *Radenicus* speaking of the Emperour *Frederick the first*, Supposing (saith hee) that after the example of the ancient Emperours, as *Julian*, *Theodosius*, *Charles*, &c. the power of calling a Council belonged unto himselfe. And elsewhere hee makes *Frederick* speake in the same tone, in that oration which he delivered to the Council. The Council of *Constance* (saith *John le Maire*) was assembled by the command of the Emperour *Sigismund*, and by the common consent of the five principal Nations of Christendome, namely the *German*, *French*, *English*, *Spanish* and *Italian* for noting out of schismes.

19 The Bishops thus called by the Emperours (that wee may note this by the way) were bound to goe to the Councils; which is sufficiently verified out of those places wee have formerly alledged: for the Emperours summons being legitimate, it must needs follow that the parties summoned were bound to make their appearance. But it is requisite wee prove it out of the Acts themselves, for there are some of the Popes Advocates which run to this lurking hole. *Constantine the Great*, without any prejudice to those honours which he had granted unto the Bishops of the *Nicene* Council, writ thus to that of *Tyre*; 'If there be any (as I hope there are not) who cunningly goes about to sleight our command, and refuseth to come unto the Council, wee will send some from hence who shall dismiss him of his dignity; to teach him that no man may contradict Imperiall ordinances made in behalf of the truth. So the Emperour *Theodosius*, when hee called that of *Ephesus*, which was the third Generall Council. *Nicephorus* saith hee added thus much unto his letters. 'That hee would not hold him excused neither before God nor man, who should not make his appearance at *Ephesus* upon the day of Pentecost appointed: For (saith he) hee who after citation to a holy assembly of Bishops, doth not run with chearfulnesse, hee gives us to understand that hee hath no good conscience. There is yet this clause more; 'So then wee, being diligently employed about this businesse which wee have set our minde upon, will not suffer any man to be absent, without punishing him.

20 Let us now returne to our former discourse. Wee suppose our adversaries are so reasonable that they will content themselves with these many examples which wee have urged; and I beleve they will suffer themselves to be perswaded hereafter, that the Councils wee speake of were not called by the Popes authority, or consent. If so, those Historians which write of them doe grossely abuse us, considering they never speake a word of it: the Acts of those Councils which are yet extant amongst us for the most part, must bee accused of falsity, which are silent in a matter of such moment. The Popes themselves have prevaricated in their own cause, who have never mentioned their pretended content, when they speake of the convocation made by Emperours; as when they make mention of the sixth General, and the four first so much renowned Councils. Harken what Pope *Gelasius* saith to it in his Council holden at *Rome*, As for the four first General Councils, three of them were called by the Christian Emperours; to wit, the *Nicene* by *Constantine*, that of *Constantinople* by *Theodosius the elder*, and that of *Chalcedon* by the Emperour

Martian

Martian. Hee might have added the fourth at *Ephesus*, which was called by the Emperours *Theodosius* and *Valentinian*. Harken what is said hereof in another place of the Decretes concerning the Councell of *Millain*; The Emperour *Valentinian* desiring to put a Catholique Bishop in the Citie of *Millain*, after the death of *Auxentius* the *Arrian*, having called the Bishops together, spoke unto them in this manner; You know very well, as being versed in Scripture, what manner of man a Bishop should bee, &c. And afterwards, The Synod desired him to make choice and nominate one himselfe. So that St. *Hierome* ought to have used another phrase, when hee said in his Apology against *Ruffine*, Tell mee by what Emperours command that Synod was called? Hee who was a Clergy-man should rather have said; Tell mee what Pope consented to the Synod? For our Sophisters hold, that the Popes authority is the soveraign plaister, which salves all: and that it is no matter who call them, so that his authority come in any way, either in the beginning, the middle, or the end. But what will they say when wee shall make it appeare, that the Popes themselves became supplicants to the Emperours to intreat them to call Councels? That they became the Emperours servants in calling them at their command? That they were summoned unto Councels as well as other Bishops? Yea that the Emperours have holden Councels sometimes without them, sometimes against them? It is necessary that wee treat a little at large of all these Articles, to take away all meanes of shifting, and evasions from such as will not yeeld to reason.

Councils called by the Emperour.

Can. *Valentinianus*. dist. 63.

Hieron. l. 2. apolo-
g. contra *Ruf-*
fin.

Jacobatus l. 3.
de Conc. art. 1.
Bellarmin. l. 1.
de Concil. c. 12.
circa princip.



CHAP. III.

That the Popes have beene suiters to the Emperours to get leave of them for the holding of Councels.



WE descend to the prooffe of this point not without good reason; considering that some have ventred so farre, as to affirme that the Emperours called Councels onely by commission from the Popes. Alledging to this effect a misconceived passage out of the epistle sent by the first Councell of *Constantinople* to the Councell at *Rome*, which wee have expounded in the first chapter of this third Booke. Wee therefore maintaine this assertion to be so farre from truth, that on the contrary the Popes have become humble suiters to the Emperours, to desire of them that they would call Councels.

2 Pope *Liberius*, upon the instance made unto him by *Constantius* an *Arrian* Emperour, to abandon *Athanasius*, considering how hee stood condemned for a heretique by a Synod, makes this reply, That in proceeding to Ecclesiasticall censures, great equity ought to bee used, and therefore if it please your Holynesse command that an assembly be called to sit upon him to the end that if he be to be condemned sentence may passe upon him in manner and forme Ecclesiasticall. By which words hee meanes nothing else but the calling of a lawfull Councell. Which may bee collected from the sequell of that discourse betwixt *Constantius* and *Liberius* about the Councell of *Tyre*, wherein *Athanasius* had beene condemned: As also from that which *Ruffin* delivers concerning this particular in the sixteenth chapter of his Ecclesiasticall History.

Cardinalis Iacobarius lib. 3.
de Concil. art. 1.
V. Ariam Bellarmin. l. 1. de
Concil. c. 13.
ubi de Concilio
Constantinop. 1.

Theodoret. l. 6.
c. 16.

Other Coun-
cels called by
Emperours.

Zonaras tom. 3.

3 Pope Celestine with his fellow Patriarchs were petitioners to Theodosius the Emperour for the Council of Ephesus. These things were no sooner known to the other Patriarchs (saith Zonaras, speaking of Nestorius Patriarch of Constantinople) but Celestine Pope of Rome, Cyrill Patriarch of Alexandria, John of Antioch, and Juvenal of Jerusalem opened the cause to the Emperour Theodosius and Pulcheria the Empresse, humbly entreating them to cause the opinions of Nestorius to be examined in a Council.

Sozomen, l. 8. c. 28.

4 Sozomen reports, (in his eighth booke, and 28 Chapter) how Pope Innocent sent five Bishops and two Priests to the Emperours Honorius and Arcadius, to entreat a Synod of them, together with the time and place for the calling of it.

Leo epist. 23. et 31. et 24.

5 Pope Leo, together with the whole Synod assembled at Rome, earnestly entreats the Emperour Theodosius in his 23 Epistle, that hee would command a Generall Council to be holden in Italy. Hee repeats the same request to the same Emperour in his thirty first Epistle: and withall makes use of the favour of the Empresse Pulcheria in his twenty fourth Epistle: As also of the Empresse Eudoxia, as appears by her letter to the Emperour, and his answer; which are recorded in the Acts of the Council of Chalcedon; and further confirmed by the testimony of Zonaras.

Zonaras l. 3. p. 38.

Gregorius in
registro c. 273.

6 Pope Gregory exhorts one of our Kings to command a Council to be called, for the punishing of the vices and abuses of the Clergy within his Realme; Wee are urgent upon you by our second exhortation, that for the reward which you shall thence reape, you would command a Synod to be assembled, and (as we have long since writ unto you) cause the corporall vices of the Priests, and the foule heresie of Simony to be condemned by the joynt sentence of all the Bishops; and to be utterly rooted out of all the confines of your dominions. This passage is the more remarkable, in as much as it is put into the Canon by some of those that collected the Canons and Decrees of the ancient Fathers: and also this his request is often repeated in his several Epistles to King Theodoric, King Theodebert, and Queene Brunehilde.

Burchard l. 15
decret. c. 20.

Gregorius in
Registrol. 7. in-
di. 2. c. 110. et
112. l. 9. indi. 8.
4 c. 53.

Athanasius in
epist. ad Solita-
rios.
Theodoret. l. 1.
c. 8.

7 Nor did the Popes herein any thing but what was the common practice of other Bishops; who when just occasion was offered became supplicants to their Princes for the keeping of Councils. Athanasius reports how himselfe and some others, finding themselves aggrieved by the Arrians, petitioned the Emperour Constans for the calling of a Council; and how upon their intreatie it was called at Sardis, whither the Bishops repaired from above five and thirty Provinces: The list of whose names you may finde in Theodoret.

Theodoret. l. 2.
c. 15.

8 The Arrian Bishops prevailed with the Emperour Constantius, for the calling a Council at Milan; They perswaded him (saith Theodoret) to call a Council at Milan a City of Italy; and compell all the Bishops to subscribe to the abdication of the unjust judges of Tyre; and to set out a new Creed, and cast Athanasius out of the Church. Thither the Bishops came in obedience to the Emperours royall command. Eusebius with his partisans, that were of the same sect, desired the Emperour to have it at Antioch: who by the cunning of the Arrians was wrought at last to proclaime two Councils, one at Seleucia for those of the East, and another at Ariminum for them of the Western Church.

Socratos. l. 2.
c. 8.

Sozomen. l. 4.
c. 22.

Idem lib. 4. c. 16

9 Besides that at other times also they called Councils by virtue of the Emperours authority, is plaine from that passage of the letter which was sent by the Generall Council at Constantinople to Pope Damasus, and the Synod at Rome; where they mention how the Pope and his Council had convoked the Easterne Bishops, by virtue of a commission granted by the Emperour Theodosius; But (say they) whereas you proceeding to the holding of a Council at Rome, have out of your brotherly charity summoned us thither, by virtue of the Emperours

Emperours letters, as your fellow members, &c. So then we are already at a great deale of oddes with those people that put the Cart before the horse. Popes summoned to Councils.

CHAP. IV.

That the Popes have beene summoned to Councils by the Emperours, as well as other Bishops.

EMperours when they intended to call Councils, were wont to write unto all the Bishops, that they should make their appearance at such places as they appointed; but more especially to the Patriarchs and Metropolitans. Thus much wee collect out of *Eusebius* in the life of *Constantine*; of whom hee saith, 'That hee called a Generall Councell, as if he had mustered an army of

*Eusebius lib. 3.
de vita Constantini cap. 6.*

God; and thither he summoned the Bishops from all parts, by his letters conceived in respective and honourable termes, to make them appeare with the more alacrity.

2 The Emperour *Theodosius* and *Valentinian* in their letters to *Cyrill*, tell him, how they had writ to all the Metropolitan Bishops, to make their appearance at *Ephesus*. As for the proclaiming of the most holy Councell our clemency hath given out our letters to all the Metropolitan Bishops.

*Cap. 23. tom. 1.
Act. Concil. Ephes.*

3 In the Acts of the Councell of *Chalcedon*, *John* the Priest, and chiefe Secretary saith; 'It is the pleasure of our most Christian, and most devout Emperours, to ordaine that this your holy and reverend Synod should bee here assembled: Wee have now in our hands their honourable letters, which we do but intimate to your Holynesses. *Dioscorus* the Reverend Bishop of *Alexandria* addeth further, That the most holy and religious letters sent by the most Christian Emperours to every Metropolitan in particular were publickly read, and inserted in the Acts of the Councell.

4 And to prove that the Bishop of *Rome* case is no whit different from other Bishops, but just of the same ranke and quality: Marke what follows immediately in the same Acts; Bishop *Julius* (who was Deputy for his Holynesse the Archbishop of *Rome*, and used *Florentis* Bishop of *Lydia* for his interpreter) said that the most holy Bishop of *Rome* Pope *Leo* had beene summoned by the most Christian Emperours, by their letters of the same tenore.

5 Wee may observe by the way, that at that time the Greeke tongue was so well understood at *Rome*, and the Latine in *Greece*, that the Bishops of both Countries were glad to speake by interpreters. Yea in the very same Councell of *Chalcedon*, the Emperour *Marcian* made one oration in Greeke for the one part, and another in Latine for the other; the matter of both being but one and the same. The Councell of *Jerusalem* made certaine Creeds both in Greeke and Latine. The Popes Legates at the Councell of *Ephesus* had their interpreter to expound their words: and when *Celestines* letters were there read, the Acts tell us how the Bishops desired they should be translated into Greeke, and read over againe: Infomuch that the Romish Legates had almost made a controversie of it, fearing lest they should prejudice the Papall dignity by such an Act; and alledging therefore how it was the ancient custome to propose

Act. 16. Concilij Chalced.

Sozomen. l. 4. c. 5

Cap. 13. tom. 2.

Act. Concil.

Ephes.

The Popes impose the Bulls of the See Apostolique in Latine only, and that might now suffice. Whereupon these poore Greek Bishops were in danger not to have understood the Popes Latine. But the Legats were at last content with reason, when it was evidenced unto them that the major part could not understand a word of Latine.

Ca. 17. tom. 1.
A^l. Concil.
Ephes.

Gregor. in re-
gistro indit. 4.
l. 9. epist. 64.

Tarasius in ep.
ad Joan presb
tom. 3. Concil.

6 But the prettiest of all is Pope Celestines excuse to Nestorius for his so long delaying to answer his letters, the ground being this, that hee could not by any meanes get his Greek construed any sooner. Pope Gregory the first ingenuously confesseth to the Bishop of Thessaly, that hee understood not a jot of his Greek. It is very probable that the proverb of honest Accursius was even then in use; *Græcæ est non legitur*. The Popes were very capable in those dayes, of having *omnia inra in scrinio pectoris*, all lawes in their breasts, but not all languages in their mouths.

7 To returne to the point in hand: Tarasius Patriarch of Constantinople, speaking in a certaine letter of his to a Priest, of the calling of the second Council of Nice, saith; *I suppose you have heard how there was a Synod called at Nice, whither wee are gone, as also all true Priests: namely the Delegates aswell of the Pope of old Rome, as of the great Bishops of the East, and diuers other holy Bishops according to the letters of the most devout Emperours*. Yea the Pope himselfe was summoned thither by virtue of those letters aswell as others. Zenaras is more full in the relation where he speaks of that Synod; *When all were agreed upon it, holy Tarasius being elected Patriarch, hee and the Emperours sent to old Rome, where Adrian was then Pope, and to all other Patriarchs, requiring them to send some in their place to assist at the Council*. If the Pope had had an hand in these summons with the Emperours, as Tarasius had, some would surely thinke they had wonne the day. But loe here you see the Pope summoned, aswell as others, by the Patriarch and the Emperours, to make his appearance at a Council; even hee that bragges that he is above them all.

Bellarmin. l. 1. de
Concil. c. 19.

8 Wee may observe in the last place how Bellarmine, after he hath maintained that Emperours could call no Councils till they had first required and obtained the Popes consent, forgetting what hee said, confesseth afterwards that the Popes were called unto Councils by the said Emperours, which cannot consist without a downright contradiction: For if Councils were called only by leave and direction from the Pope, there was no need that hee should bee summoned himselfe, seeing it was hee that summoned others. But ther's yet a better jest behind: For, saith he, *The Emperours when they called Councils, summoned all other Bishops by way of Edict and command: but for the Pope they intreated him, that if hee pleased, hee would vouchsafe to come thither*. I never saw so many fine devises. The prealleged passages doe plainly shew that all this is nought but winde and smoak. Those letters of the Emperour Martian, which hee urgeth for these pretended termes of honour and respect, are no more but the responsories to Pope Leo's own letters, which hee had sent by his Legates, as is expressly affirmed in the letters themselves. Leo had a long time been tampering with the Emperours for the calling of a Synod, and at last obtained one not in Italy, where hee desired it should bee, but in the East, whither hee is by these letters intreated to come: So that these are not the ordinary copy of the Edict, for the Convocation of the Council.

CHAP. V.

That divers Councils have beene called either without the Popes, or against them.



WE said before that Councils have beene called without the Popes consent, yea even against them. As for such as have beene holden without the Popes, we have presidents in store; the Councils of *Aquileia*, *Africa*, *France* and *Spaine*. Those which are reckoned in the Canon, *prima adnotatio*, and others of like nature; whereof though some were nationall, some Generall, (that is, consisting of Bishops out of divers Countries) yet notwithstanding they were holden without the knowledge or consent of the Popes.

2 It may bee said peradventure that the Popes slighted these petty Councils, and that they only stand for their authority over such as are Generall. But there is no such matter; for the very same prerogative which they pretend to have over General and Oecumenical Councils, they stickle for it over others also. Pope *Symmachus* tels us to very roundly, *The Councils of Priests, which by the Ecclesiasticall Canons ought to bee holden every yeere through the Provinces, have lost their force and power, inasmuch as the Pope is no longer present with them.* It is true indeed that *Gregory* the thirteenth, when hee purged *Grati-ans* Decrets, puts those words upon *Damasus's* adversaries, and (to helpe them for a shift) the ensuing words upon him, *Silly fooles that you are, did you ever read of ought that was determined in them but by appointment from the See Apostolique, and without having constant recourse to that See to consult when any matter of importance was in hand?*

3 Yet still this makes the validity of these Councils to depend upon the Popes authority: And Pope *Gelasius* is in the same tune, saying, *That it is not lawfull to assemble any particular Councell; nor was it ever permitted so to doe: but when any question was to bee resolved either touching some doubtful passages in Generall Councils, or touching salvation, recourse was wont to bee had unto the See Apostolique.* The severall Acts of Councils both Provinciaill, nationall, and Generall holden in divers Countries, may easily convince these domestique testimonies of falsity: inasmuch as it is plainly evident from them that those Councils were holden without the presence, authority, or consent of the Popes; and yet withall they made some Canons whereof the Popes afterwards served themselves; and were well content they should be enrolled in their books.

4 Wee have also divers presidents of sundry Councils holden against the the Popes: as that of *Rome* called by *Otho* the Emperour against Pope *John* the 12, about the yeer 956: Another called about 1040 by the Emperour *Henry* the 3, against the Popes, *Bennet* the 9, *Sylvester* the 3, and *Gregory* the 6. That at *Sutoy* a town in *Tuscany*, called by *Henry* the 4 Emperour, against *Bennet* the 10, ann. 1058: That at *Brixine* called by the same Emperour against *Gregory* the 7, about the yeere 1083: As also the first and second at *Pisa*, the one against *Gregory* the 12, and *Bennet* the 13, the other against *Julius* the second. There is not one of all these which was either called

Councils called against Popes

Vid Can. prima adnotatio dist. 16.

(an Concil. dist. 17.

Can. nec licet: et Can. multis eadem dist. Luitprandus de r. bus per Europam gestis lib. 6. c. 6. et seq. M. Adamus in hist. Eccles. 59 Platina in Joanne 12. in Benedicto 9. in Sylvestro 3. in Clement 2. Otho Frisingensis lib. 1. de gestis Fred. rici. Et Radenicus in appendice. Benno de vita et gestis Hildebrand. Platina. in Gregorio 12 V. Acta Concilii Pisani 2. Et Arnoldum Ferronium in Ludovico 12. Naucerum to. 2. generat. 47.

The Popes authorities answered. or consented unto by them at first ; and I am much deceived if ever they were confirmed by them after.



CHAP. VI.

That notwithstanding all these authorities, the Popes doe arrogate unto themselves the power of calling Councils : and how long it is since they usurped it.



It is not without good reason that wee have produced so many passages, to prove by the testimony of all antiquity, that the right of calling Councils belongs to the Emperours, and not to the Popes ; and that their consent or advise was never required thereunto ; considering that, if wee give ear to them, there is no man how great soever hee bee in place, that may interpolate himselte in this businesse but themselves. And if wee

*Pelagius 2. ep. 1
ad Orientales.*

*Leo Papa in ep.
ad Tarbium 9
c. 17.*

*Sixtus Papa 3.
in epist. ad Ori-
entales.*

*V. epist. Marcol.
ad Episc. Anti-
ochen.*

*Et rescriptum
Julii contra
Orientales in
decret. Isidori
p. 14. et. 163.*

must stand to their words, it is a judged case. Observe, I pray you, how they speake of it ; *The power of calling Generall Councils* (saith *Pelagius* the second) *was by speciall priviledge devolved upon the See Apostolique by Saint Peter.* And *Leo* the first, that so belaboured the Emperours *Theodosius*, *Valentinian*, and *Marcian*, to obtaine leave of them that a Generall Councell might be called, saith in a certaine epistle of his directed to a *Spanish* Bishop, 'Wee have sent out our letters to our brother-Bishops, and summoned them to a Generall Councell. *Sixtus* the third saith, 'Valentinian the Emperour hath called a Councell by authority from us. So Pope *Marcellus* and *Julius* the first affirme, *That Councils cannot bee holden without the authority of the See of Rome.*

2 As for *Pelagius* wee must tell him by his good leave, that it is not true which hee saith ; and desire him to answer all the fore-cited authorities. And for Pope *Leo*, if the will may passe for the deed, it was hee that called the Councell indeed : for I doubt not but hee was as greedy of arrogating this to himselte, as the presidency, for which hee was at daggers drawing with *Dioscorus*, who, as hee said, had cozened him of it underhand. But it may be hee goes not so farre as some would beare us in hand : for he meanes onely of a Generall Councell of all the Bishops of *Spaine*, but not of all Christendome. The entire passage, which is mangled and cited by *Bellarmino*, is (as wee have formerly alledged it) conceived in these termes, *Wee have sent out our letters to our brethren and fellow-Bishops of Tarraco, Carthage, Portugall, and Gallicia, and have summoned them to a Generall Councell.* And it seemes he much distrusted his owne power ; for hee addes, *But if any thing hinder the celebration of a Generall Councell, (which God forbid) yet at least let the Clergy of Gallicia assemble themselves.* Now he that should grant the Pope this power of calling a Councell of the Bishops of *Spaine*, should give him onely the authority of a Patriarch in the West : but not in *Africk*, nor in the East. So that there is nothing gotten by this place for the calling of Generall Councils : and for others we shall speak of them anon.

3 Now for *Sixtus* we will demurre upon an answer for him, till such time as he hath proved unto us that the Emperour called that Councell which hee speaks of by authority from him. And for the saying of *Marcellus* and *Julius*,

it is capable of a tolerable construction; for they speake not of the calling, but of the holding of Councils. 'Tis true indeed, that for the holding of them, they take too much upon them by the word *Authority*: they should have used another terme, for that is too imperious to expresse what they intend. For all the authority they pretend to, comes but to this; *That a Generall Councell cannot be holden, unlesse they be called to it.* Which we grant to be true. And this is the meaning of that old Ecclesiasticall Canon mentioned by some authours, *Which forbids the making of Decrees in the Church, or (as Bellarmine expounds it) the celebration of Councils, without the opinion and advise of the Bishops of Rome.* The application which Pope *Julius* the first makes of it, clearly proves as much; when hee complains that hee was not called to the Councell of *Antioch*, where *Athanasius* was condemned, charging them for that with the breach of that Canon. *Julius* (saith *Socrates*) in his letters to the Bishops of the Councell of *Antioch*, tells them they had offended against the Canons of the Church, in that they called not him to the Councell: Forasmuch as the Ecclesiasticall Canon forbids the making of any Decrees in the Church without the opinion and advise of the Bishop of Rome.

All Patriarchs
should be pre-
sent at Gene-
rall Councils.

Socrates l. 2.
c. 5.
Nicephorus l. 9
c. 5.

Socrat l. 2 c. 13

4 And *Sozomen* saith; *Julius* writ to the Bishops which were assembled at *Antioch*, accusing them for seeking after novelties, contrary to the faith and beliefe of the *Nicene Councell*, and contrary to the lawes of the Church, for not calling him to the Councell: Forasmuch as, by virtue of a law made in behalf of the dignity of Priests, all Decrees are invalid which are enacted without the opinion and advise of the Pope of Rome. Hence *Bellarmino* infers, that Councils cannot bee held, unlesse they bee called by the Pope; and yet Pope *Julius* doth not complaine that hee did not call the Councell, but that it was kept and hee never called unto it: Whereof hee had just occasion to complaine, considering that a Councell cannot be termed Generall, nor any Decrees and Canons made to binde the whole Church Catholique, unlesse all those which ought to bee present, especially the Patriarches, bee lawfully called thereunto.

Sozom l. 3. c. 9.

5 Nor is this any speciall priviledge to the Bishop of Rome, but a right common to him with all other Patriarches; who ought of necessity to bee summoned to all Generall Councils. And this is the reason why the second Councell of *Constantinople* is not accounted properly Generall, because all the Patriarches were not there. However (saith *Balsamon*) the Synod of *Constantinople* be no Generall Councell, because the other Patriarches were not there; yet is it greater than all other Synods, and the Archbishop of that See is styled, *Universall Patriarch*.

Balsamo in com-
ment. ad Synod.
Constant. l. 1. ad
finem.

6 For this cause also, *Nestorius*, when hee was summoned to appeare at the Councell of *Ephesus*, answered, that hee would, so as soone as *John* the Patriarch of *Antioch* was come thither: for all the rest were there already; to wit, hee of Rome, and hee of *Alexandria* in the person of *Cyrill*, as also he of *Jerusalem*: and for the other of *Constantinople* he was the man whose case was then in question. And this was the reason why the Patriarch of *Antioch* was so highly offended with *Cyrill*, (who would not vouchsafe to stay for him) that being come after the sentence of deposition against *Nestorius*, hee bandyed with his owne Bishops against *Cyrill*, and excommunicated him.

Socrat l. 7. c. 33

7 The eighth Generall Council, after the arrivall of the Patriarch of *Alexandria*'s deputy, who came somewhat tardy, Gave thanks to God at his coming, because hee supplied what was wanting to a Generall Councell, and made it most compleat. And *Basil* the Emperour calls those five Patriarches, *The five Architects of the Ecclesiasticall tabernacle.* *Zonaras* calls the same Patriarches constantly, *The Keyes or Princes of the Councell*: as when hee speakes of the

Actio 9 genera-
lis. 8. Synod. to.
4. Concl. in fine
ejusdem Syno-
di.
Zonaras to. 3.

How long
since the Popes
first called
Councils.

author expla-
nationis San-
ctorum et vene-
rab. Concil. c. 18
Tom. 2. Apor.
Concil. Ephes.

Affion. 1 Conci.
lii Chalced.

V. Añ 8 Syno-
di in definitione
Concilii ante
adventum vi-
carii sen. Rom.
To 4. Concil.

Bellar. l. 1. de
Concil. c. 12;
Marcellus in
epist. decretali.
1. ad episc. An-
tioch. Prov. to 1
Conc.
Can. sexaginta.
Can. Clement.
Can. placuit.
dist. 16.
Bellar. l. 1. de
Concil. c. 12.
Synodus Alex-
andrina in
epist. ad Feli-
cem in decreto
Isidori p. 167.
V. Can. 51. Con-
cilii Carthag.
et Balsamon.
in laud.

V. Interpretem.
Concilii Nice-
ni in suis anno-
tat.

Generall Councils of *Ephesus*, the first of *Constantinople* and *Chalcedon*: wee shall urge the words when wee come to speake of the presidency.

8 The authour of the booke entitled, *The explanation of Councils*, doth the like. Nay they were not only called to Generall Councils, but the custome was, for honours sake, to wait for them certaine daies, when they did not come at the day appointed. So they stayed sixteen dayes after the time was expired, for the Patriarch of *Antioch* at the Councell of *Ephesus*. It were good reason to give the like respect to him of *Rome*; and so they should doe, yet not so as that they should forthwith breake up the Councell, or totally deferre it till his comming; or pronounce all things null and invalid which were concluded upon without him. It should suffice that hee was duely summoned as the rest of the Patriarches.

9 Hereupon *Talasius* Bishop of *Cesarea* in *Cappadocia*, upon a report which was current in the Councell of *Ephesus*, that Pope *Leo's* Legats had beene summoned, and yet disdained to appeare, said, *Seeing so much hath been done as was decent and convenient for the Holy Councell to doe, I hold it no way necessary to delay the time any longer.* It will bee answered that this Synod is rejected by the Pope. It is true; yet for all that the beginning of it was lawfull, and the calling of it duely performed; so that it is neither impertinencie nor contradiction to affirme, That the saying of that Bishop was true, and yet the Synod was rejected.

10 The eight General Council having expected the Popes Legats for certaine dayes, and seeing they came not, tooke this ensuing resolution, *Considering the deputies for the See of old Rome have beene a long time expected, and that it is against all reason to wait for them any longer, wee hold it an unbecoming thing to slight and endanger the tottering Church of our Saviour Jesus Christ by such delays.*

11 Wee are onely put to the pinch to finde out when this Ecclesiasticall Canon whereof we speake, was made, and who are the author of it. *Bellarmino* holds it is one of the Canons of the Apostles, and urgeth Pope *Marcellus's* authority to prove it. But *Marcellus* onely fathers it upon the Apostles, or their successors, so that for all him the author might as well be a Pope as an Apostle. Besides, if so, then wee should find it amongst the Canons of the Apostles, whose greatest number is determined by the Synod at *Constantinople*, in *Trullo*, but to be fourscore and five; howbeit others reckon fewer, some fifty, some sixty, some seventy. *Bellarmino*, upon the testimony of Pope *Julius* the first, and the Councell of *Alexandria*, saith, this Canon was renewed by the *Nicene* Councell. But we finde no such matter in the Acts and Decrees of the Councell of *Nice*. Nor is it likely it should herein give any advantage to the Pope, seeing that in the sixth and seventh Canons, by limiting his power and jurisdiction, it makes him equall to other Patriarchs. *As for the Councell*; Councils sometimes equivocate in their quotations. It is said in the Synod of *Carthage*, that Priests are enjoined by the *Nicene* Councell to make their oblations fasting; and yet *Balsamon* assures us that there is no such thing determined in the Councell; nor indeed can we finde ought of it in the Acts which are extant among us at this day. So likewise the Pope did equivocate, who would have made the Councell of *Carthage* believe that there was a reservation in the Councell of *Nice*, for appeals to him.

12 It may bee answered that wee have not at this day all the Canons and Decrees of the *Nicene* Councell extant: But I reply, That it is not pretended that there were any more than twenty Decrees, touching Ecclesiasticall Discipline: Now all those wee have; and the power of calling Councils, which is the point in question, is a matter of discipline. As for those which concerne points of faith, it skils not for the present whether there be more or fewer of them.

them. Yet I suspect somewhat which is not improbable; namely, that the confirmation of that Ecclesiasticall Canon, which hee affirmeth to have beene made by the Councell of *Nice*, must bee referred to that which is ordained in the sixth Canon: Where it is said, *That it is a plaine case, that if any bee ordained Bishop without the opinion and advise of the Metropolitan, hee ought not to bee acknowledged for such.* For this ought to bee extended to all things which are treated of by an assembly of Bishops: So *Balsamon* expounds it, who after hee had said, *Forasmuch as the Bishop of Rome is Patriarch of the Westerne Provinces,* hee addes, *The Canons meane that Patriarches should be above Metropolitans, and Metropolitans above Bishops; to the intent that no matter of moment and importance bee done by the Bishops without them.* Now the Pope gaines nothing by all this, for any Patriarch may serve himselfe of this Canon, and apply it to his owne cause. So likewise it is probable that the old Canon which was made hereabout, spoke not of the Bishop of *Rome* in particular, but had reference to all the other Patriarches and Metropolitans; and that Pope *Julius*, being the first that complained of the breach of it, alledged that Canon as if it had beene particularly in favour of himselfe, howbeit it was conceived in generall termes. And indeed hee is the speaker both in *Socrates* and *Sozomen*; and those who afterwards mentioned the complaint or accusation which hee commenced against the Bishops in the Councell of *Antioch*, in imitation of his words, have also restrained the Canon to particular termes, howbeit at the first it ran in generall.

The Canon in
favour of the
Popes when
made.

*Socrat. l. 2. c. 13.
et Sozomen. l. 2.
c. 9.*

13 If this exposition will not give all the world content, wee may say that that Canon being made, as it is probable, by the Bishops of the East, they ordained that they should not set out any generall Decrees, nor hold any synodical assemblies, without calling in the Bishop of *Rome* unto them, by that meanes to preserve the union of the Churches: Decreeing thus much in favour of him, rather than any other in consideration of his remotenesse: as also, for the same reason, they allowed him to nominate some Greek Bishops for his Legats: *A way was invented (saith Balsamon) because of the length of the way, that the Pope should have Legats out of our quarters, yet were they not therefore under him.* For all this wee will never deny but by the See of *Rome* was alwayes held in honourable esteem, both for the glory of the Citie, which was the head of the Empire, and the sanctity of the Bishops in those dayes; nor that much reverence and respect was ever given unto it; though not such and so much as they now take upon them. And hence it is that the Bishops in the Councell of *Rome*, writing to the Bishops of *Illyrium*, amongst other reasons which they urge for the rejection of the Council of *Ariminum*, bring this for one, because certaine Bishops, whom they there mention, never consented unto it, and amongst others the Bishop of *Rome*; *Of whose opinion and advise speciall regard ought to bee had above all others.*

*Balsamo in 6
Synodum Con-
stant in Trullo.
p. 194.*

*Theodoret. l. 2.
c. 22.*

14 It may furthermore bee said, and that not unlikely, that this Canon was first made at that Councell, which some say was holden at *Alexandria* in *Palestine*, about the grand controversie concerning the keeping of Easter day; if so be it bee true, which is reported, that Pope *Victor* was present there in person, together with *Narcissus* Patriarch of *Jerusalem*, *Theophilus* Bishop of *Cesarea*, and *Irenaeus* Bishop of *Lyons*: considering that (as *Eusebius* relates) about the same time there were sundry Canons and Decrees made in sundry Councils concerning that controversie: which might very well give occasion to all those Patriarches and Bishops there met together, to ordaine, for the better avoiding of such difference for the future, and preserving the union of the Church, that from thenceforth no universall Decrees should be made, unlesse all the Patriarches or Metropolitans were first called.

*Martinus Polonus in Victore
sub ann 203.
Platina in
Victore.
Eusebii hist.
l. 5 c. 32.*

15 Yet for all this I doe much suspect that Councell of *Alexandria*, especially

Spurious Canons imposed by the Popes.

Eusebii hist. Eccles. l. 5. c. 22.

ally in that forme wherein it is presented to us ; it being very improbable that both *Victor* and *Irenaeus* should bee there in person : and without question it is a mistake of our later Historians, who misconceived the words of *Eusebius*, telling us that about the same time there were divers Councils holden upon occasion of that divers celebration of Easter, (which some kept upon the fourteenth day of the moon, the same day upon which the Passeeover was kept, others upon the Sunday after) as in *Palestine* by *Theophilus* and *Narcissus*, at *Rome* by *Victor*, in *France* by *Irenaeus*, and by others in other places. And indeed that quarrell was not then accorded, but continued till the Council of *Nice* ; so that wee are yet to seeke for the authours of that Canon, nor is there any body that can tell us any newes of them. But be hee who he will, it may suffice that wee have set downe the true meaning of it.

V. Epist. decretales Marcelli Pape 1. ad *Episc. Antioch.* & ad *Maxentium tyrannum* in decreto *Isidoror* pag. 54, 55.

16 Let not then *Bellarmino* and *Baronius*, and all those that speake of it, give any more right to the Pope by virtue of that Canon, than hee himselfe pretended to have. For *Iulius* never complained that the Council was called by another, and not by himselfe : nor yet that the designe of holding the Council was concluded upon without acquainting him with it, but onely because he was not called unto it. I know very well that the Popes afterwards have beene taught to speake another language. Did I say afterwards? nay even before too, even those that lived before the *Nicene* Council, who tell us wonders of the authoritie of their See; who (as they say) command the Pagan Emperours, and make lawes and rules against them; who arrogate unto themselves the appeales from other Bishops, and the jurisdiction of making all causes of their cognizance ; who foist in other Canons and Decrees of the *Nicene* Council upon us, than those which were approved of, and for their owne advantage : who in case of appeale from other Bishops, goe beyond the bastard Canon of *Nice*, which the Popes, to their owne shame and confusion, would have had legitimated by the Councils of *Africke* : who would perswade us also that it belongs to them to call Councils, to preside in them, to ratifie and confirme them, although in those dayes there was no such matter. Those good Bishops (I say) who never thought of ought but martyrdom and tortures, have beene made to speake after their death, what their life disavowed and gave the lye unto.

Can. de libelli dist. 21.
Can. Si Romanorum dist. 19.
Gratian in ver. sic. quomodo :
& Can. viginti dist. 17.

17 But seeing that the rude and ignorant style of those Decrees betrayeth the asse unto us by the eares ; that this new plant could never yet take root in the understanding of the learned ; that the Popes owne Canons give us just cause of suspicion against them, inasmuch as they informe us that the most ancient Decrees in this kinde are those of *Sylvester* and *Siricius*, so that our predecessors long agoe rejected all those other which were said to be more ancient, upon this ground, because they were no where to be found in that *Codex Canonum* which they used in their dayes; & besides that our *Gratian* assures us, that, excepting the twentie Decrees which we have of the Council of *Nice*, all the rest (if yet there be any other) are out of use and practice, and not admitted in the Church of *Rome* ; wee will therefore forbear that long discourse which we had prepared upon this subject, and resuming our former thred will onely adde what was afterwards observed and practised, which plainly proves our exposition to be true.

Hermogenianum in le. si de interpretatione D. de legib.

18 Our Lawyers tell us that when there is any controversie about the sense and meaning of a law, speciall regard ought to be had of that sense which practice hath put upon it. Let us observe this rule in the exposition of our Canon. The question is, *Whether the Pope ought to call Councils, or no* : we finde by practice that the Popes did not call them, but the Emperours ; and that they did so constantly, the Popes seeing and knowing as much; that they themselves have beene petitioners to the Emperours to get them called ; that they have
appeared

appeared at the Councils upon command from them; therefore we may well conclude, they have no right at all, by this Canon, to call Councils.

The Popes
usurpation how
ancient.

19 We will adde furthermore, that the Popes never complained of the Emperours for taking upon them that power of Convocation; which doubtlesse they would have done, if it had belonged to them of right; for they have alwayes observed that rule to a haire. *De vigilantibus non dormientibus*. So as, to say the truth, no man can accuse them of negligence in preserving St. Peters patrimony, which they have husbanded so well, that their successors for the future need make no scruple of receiving it without an inventory.

20 We say moreover, that it is but a little while agoe since they usurped this authoritie: for we doe not finde that ever they used it till the year 1123, what time the first Council of *Lateran* was holden, *Calixt* the second being Pope, and *Henry* the fifth Emperour. *Platina* saith that Pope held a Council of nine hundred Bishops to consult about the sending of succours into the holy Land. Howsoever we must observe that this usurpation, which they continued from thence forwards, was not without all interruption; for the Emperours alwayes kept a hanke of their right, though it was but *extrema quasi lacinia*. They called divers Councils after that time, as that of *Pavy*, which was assembled by the Emperour *Fredericke* the first, to determine the schisme betweene *Victor* and *Alexander* the third, about the year 1163 or 64: but it is not amisse to heare what language he useth in his letters of Convocation.

Platina in Catalogo 2.

21 And for the prescribing of a remedy pleasing to God, and proper for this dis-ease, we have resolved, upon the advice of certaine godly and religious men, to hold a generall Council, which we appoint to be at *Pavie*. The author that relates these letters, speakes thus of them. The Emperour supposing that the authority of calling a Council appertained unto him, after the example of *Justinian*, *Theodosius*, and *Charles*; and that the controversie could not be determined by any lawfull judgement, unlesse both parties were summoned thereunto, sent Bishops both to the one and the other to summon them. The same Emperour useth the same termes in his speech made at the opening of the Council. He was also the man that called the Council of *Dyon* about 1165. It is true that Pope *Alexander* the third would not be seene there, because (saith *Platina*) he did not call it himselfe. But he raised that quarrell too soone, considering that his right was not yet well caulked.

Rodericus de rebus gestis Frederici 1. 2. c. 55.
Idem lib. 2. c. 54.

Idem lib. 2. c. 64.

Platin. in Alex. 3.

22 So likewise the Councils of *Pisa* and *Constance* were called by the Emperours. Now if the possession was afterwards lost by the negligence of the Emperours, yet this is sufficient to bring a writ of Right, and make an entry: for which triall the Emperours are better furnished of evidence than the Popes; and besides they who should breathe nought but justice and honestie, will voluntarily surrender unto *Cesar* what of right belongs unto him.

* See this question largely and learnedly canvassed by *Salmasius* and *Sirmondus*, (& others) in their divers late tracts de *Suburbicariis regionibus*.

23 What we here speake is concerning Generall Councils, for as for Provinciall, we deny not but the Popes have had authoritie to call them within the bounds of their owne territories, as have also other Patriarchs and Metropolitans. * And yet those bounds are but very narrow: for wee doe not finde that they were extended over all the West: and what *Balsamon* saith, that the Bishop of Rome is the president of the Westerne provinces, must be restrained unto Italy. And for matter of fact, the Pope was neither seene nor heard, in person nor by proxie, at the Council of *Constance*, which consisted of the French and German Bishops, and was assembled by the authoritie of the Emperour *Charles* the third, Anno Dom. 887.

a Balsamo in can. 6. conc. Nic. b Synod. Agrip. to. 4. Concil. p. 17.

24 Nor was hee at that of *Aquileia*, called by the Emperours *Valentinian* and *Theodosius*, consisting of the Bishops of France, *Africke*, and other Provinces, at which Saint *Ambrose* Bishop of *Adilan* was present.

c V. Histor. B. Servatii. Or. Synod. Aquileian. 40. Concil. p. 752.

25 The like may be said of such as have beene holden in France, Spaine, and other

other

Whether a General Council be now possible.

Theodoret l. 4. c. 2. & 3.
Sozomen l. 5. c. 16. & l. 6. c. 7.
Basil. epist. 50.
Ambros. epist. 44.

Radenicus l. 2. cap. 55. 70.

Idem ibid.

Guiliel. Newbrigen. verum Anglicanum l. 9. c. 1.

other Kingdomes or Provinces of the West; the calling whereof belonged either to the Primates and Metropolitans, or to the Kings and Princes.

26 So *Maximus* Patriarch of *Ierusalem* assembled the Bishops of *Syria* and *Palestine* to receive *Athanasius* into the communion of the Church, and restore him to his former dignitie. So *Athanasius* himselfe after hee was called home out of exile by *Iovinian* the Emperour, assembled a Councell of Bishops. But it would be tedious to heare all the examples which are extant about this subject. As for the calling by Kings and Princes we shall speake of that anon.

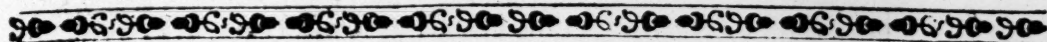
27 For the present we must answer an absurditie which *Bellarmino* presseth, that in these dayes it would be impossible for any one to call a General Council but the Pope: for as for the Emperour, (to whom wee said it of right belonged) he cannot doe it, (saith he) because he hath no authoritie over Kings and Princes; but, on the other side, the Pope hath over all Christendome. *Bellarmino* is deceived; for the Pope in that respect hath scarce any more authoritie at this day than the Emperour. Let him call up his count of those Kingdomes and Provinces which have withdrawne their obedience from him, and he will finde that he hath misreckoned himselfe. All that *Bellarmino* can infer is this, that we must talke no more of General Councils in these dayes, seeing there is no man to call them with convenience and authoritie. Wee answer, that he that should now undertake of his owne absolute power to call any, should much deceive himselfe, even the Pope not excepted. But that every one out of courtesie would be willing to hearken unto it. There is not a Prince in *Christendome* but yeelds the first degree of honour to the Emperour, and would take in good part any gentle and kinde summons which should come from him, for the holding of a Council. The Emperour *Fredericke* the first found a way to assemble that of *Pavy*, whereunto he summoned the Archbishops, Bishops, Abbats, and other Ecclesiasticall persons, as well in all his Empire, as in other kingdomes; so wit of England, France, Hungary, Denmarke. And it is probable, that when he made this convocation, he writ of it in particular to those Christian Princes which were no subjects to the Empire: for the Acts of the Council say in expresse termes, That the Kings of England, Hungary, Bohemia, and Denmarke consented thereunto. So likewise the Emperour *Sigismund* called that of *Constance*: the Emperour *Maximilian* that of *Pisa*.

27 Although the Popes Primacy be not acknowledged by the Greek church, yet he assembled the Council of *Ferrara*, where were present the Emperour of *Greece*, the Patriarch of *Constantinople*, and a great number of Greek Bishops. Let us never then make it a matter impossible; it is feseable enough, if we give our mindes to it. When the Pope called the Council of *Trent*, he communicated it first and formost with Christian Princes, and required their advice about it. Having asked the advice (saith *Paul* the third in his Bull of Convocation) and sounded the mindes of Christian Princes, whose consent in the first place we thought usefull and convenient, and finding them not averse from this our designe, we have thereupon denounced the Council. So King *Charles* the ninth became a suitor to the Pope and Princes of *Christendome* for the renewall of that Council; for mark how he speakes of it in his letters directed to the Prelates of *France* to cause them goe thither. Although the present troubles of the Church have moved us to desire and procure by all meanes possible, the holding of a General and Oecumenicall Council, and that our holy father the Pope, the Emperour, and other Christian Kings and Princes, by their severall answers made upon our instant request and suit unto them thereabout, doe make a faire show of being willing to hearken thereunto, &c.

28 He did no more in this but imitate the patterne of other Kings his predecessors. *Charles* the sixth, to make up the schisme betwixt Pope *Boniface* and Pope *Bannet*, sent his Ambassadors to the Emperour, the Kings of England, Bohemia,

hemia and Hungary, to entreat them to have a regard to what concerned the publique good and quiet. The same King went so farre that he perswaded *Wenceslaus* the Emperour to come to *Rhemes*, where there was a Generall Councell holden upon that occasion, where the Ambassadors of the King of *England*, and divers other nations, were present.

The Council of Trent gives the right of Kings to the Pope.



CHAP. VII.

That the authority of calling Councils belongs also to Kings and Princes.



Hese examples invite us to looke a little further into *France*, and speake more fully concerning this point of calling Councils. And the rather because both our Kings and all other Princes of Christendome, are deprived of this royal prerogative by the Council of *Trent*; and that in such sort that the Pope thereby enhanseth his owne greatnesse, to whom all such Councils are bound to sweare obedience, and not to depend upon any but upon him. The Decree runnes thus; *Provinciall Councils if they have beene any where disused, let them, for reformation of manners, correction of abuses, composing of Controversies, and such other ends as are allowed by holy Canons, be brought up againe. Wherefore let the Metropolitans themselves, or, if there bee any lawfull impediment why they cannot, the senior Bishop, within a yeare at the furthest, after the end of this present Councell, and after that once every three yeares at least, after the octaves of the resurrection of our Lord Iesus Christ, or at some other more convenient time, according to the custome of the Countrey, not faile to call a Synod in their severall Provinces.*

Conc. Trid. Sess. 24. c. 2. [et in aliis Sess. 8. Can. 9.]

2 And in another Session there is a strict injunction laid upon them, *That at the first Provinciall Synod which shall bee holden after the end of this present Councell, they publiquely receive all and singular such things as have beene determined and ordained by this holy Synod, and withall promise and professe true obedience to the Bishop of Rome. It remaines that wee prove this right of calling Councils to belong to our Kings within their owne Kingdome. In the collection of the liberties of the Gallicane Church, there is this Article; The most Christian Kings have alwayes, as occasion and the necessities of their Countrey required, assembled, or caused to assemble, Synods or Councils Provinciall and Nationall: Who among other things concerning the preservation of their State, have also treated of such matters as concerned the order and Ecclesiasticall discipline of their Countrey: touching which they have caused rules, Chapters, lawes, ordinances, and Pragmaticall Sanctions to be made and set out under their name, and by their authority. Wee read another Article of this nature in the third Chapter of the Remonstrance made by the Parliament of *Paris* to *Leves* the eleventh.*

Sess. 25. c. 2. [et in aliis Sess. 9. Can. 2.]

3 Nor is there ought in all this but is well backed by such examples and authorities as shall bee produced. We begin then with *Clovis* our first Christian King, by whose command the first Councell at *Orleans* was assembled about the year 506. So say the Bishops that met there in the letters which they sent unto him. *To their Lord, the most illustrious King Clovis, the sonne of the Catholique*

Conc. Aunod. c. 2. to. 2. Conq.

Councils called by the French Kings.

Concil. Aurglian. 2. in Princ. & in fine.

to. 2. Con. p. 551 552.

Conc. Aurelian. 5 to. 2. Conc.

p. 574.

Concil. Paris. 2.

in princ. to. 2.

Concil. p. 813.

Conc. Matisc. in

princ. to. 2. Con.

p. 840.

Conc. Valentin.

Gall. 2 in princ.

to. 2. Conc. p.

853.

Edictum Regis

Guntrandi ad

franc. 2. Conc.

Matisc. to. 2.

Conc. p. 854.

Cabilonense

Conc. in princ.

to. 3. Conc.

p. 208.

Synod. Francica

in Princ. tom. 3.

Conc. p. 437.

Synod. Sueffo-

nens. in princ.

to. 3. Conc.

p. 438.

Conc. apud Pa-

latium Vernis in

princ. to. 3. Con.

p. 439.

Libel. Sacrosyl.

in Actis Conc.

Francos. to. 3.

Conc. p. 232.

Annales rerum

gest. a Carolo

Magno. sub ann.

794.

tholique Church. All the Clergy whom you commanded to come unto the Council. So likewise the second Council of Orleans was holden in the year 533. by command from King Childebert; which is mentioned in the subscription of the Bishop of Bruges: and it is said in the Preface, *Wee are here assembled in the citie of Orleans, by the command of our most illustrious Kings.* The fifth of Orleans was called by King Cherebert, the year 549. Wherefore the most mild and invincible Prince Cherebert, having assembled the Clergy in the citie of Orleans, &c. The second of Paris was called by King Childebert, ann. 558. Being met in the citie of Paris, (they are the words of the fathers of it) by the command of our most illustrious King Childebert. The first of Mascon by King Guntrand, in the year 576. Wee being assembled in the towne of Mascon, by the command of our most illustrious King Guntrand.

4 The second of Valencia was called by him also in the year 588, and it hath the same Preface. He called also the 2 of Mascon the same year 588; and afterwards by his Edict confirmed the Decrees thereof, as made by his commandement. Wherefore (saith hee) *wee will and command, that whatsoever is contained in this our Edict, bee for ever observed and kept, forasmuch as wee have taken paines to cause it to bee so determined at the holy Synod of Mascon.* That of Cavallon in Provence, or (as others fancie) of Chualons upon the Saon, was holden in the year 658, By the call and appointment of the Illustrious King Clovis. The Synod which was held in France, ann. 742, was called by Carloman, as hee himselfe witnesseth in the Preface thereunto; *I Carloman, Duke and Prince of the French, with the advice of the servants of God, and the chiefe Lords of the Land, have assembled in a Councell all the Bishops of my Kingdome, together with the Priests, in the 742 yeere of Christs incarnation.*

5 In the time of King Childeric, Pepin, who then ruled all the roist, called a Councell at Soissons, in the year 744: where hee assisted in person, together with the greatest Peeres of the Land. In the second year of Childeric the French King, I Pepin Duke and Prince of France, with the consent of the Bishops and Clergy, after I had consulted thereabout with the chiefe Lords of France, determined to hold a Synod or Councell at Soissons; which wee have also done. The Decrees of that Councell are all conceived in his name; for the constant forme of them is, *Wee ordaine with the consent and advice of the Bishops, and chiefe Lords of the Land.* Now these Decrees are concerning the confirmation of the Nicene Creed, the keeping of yearly Synods, the ordination of Bishops, the obedience due unto them, the life and manners of the Clergy, and such like matters.

6 The same Pepin being afterwards King of France, in the year 755, caused almost all the Gallitan Bishops to meet at the Councell of Vernes the Palace; so saith the Preface to it. Charles the Great called the Councell of Frankford, where the heresie of Felix was condemned, and the seventh Generall Councell, as it is confessed in the Acts thereof. A great number of Bishops out of all the Provinces under the dominion of the most mild & Illustrious King Charles, assembled themselves with speciall care, by virtue of his ordinance and command. Charles the Great saith as much himselfe in an Epistle which hee writ to Elipend Archbishop of Toledo, which is inserted amongst those Acts. *To accomplish that joy, being incited thereunto by a fraternal Charity, we have commanded that a Synodical Councell bee assembled, out of all the Churches of our Dominions.* Which is further confirmed by the authority of the old Chronicle; *The King in the beginning of harvest (what time hee called also a generall meeting of the States) caused a Councell of Bishops, out of all the Provinces of his Dominions, to meet in the same citie, to condemn the heresie of the Felicians; where the Legates of the Pope of Rome were present also.*

7 The Bishop of Aquileia in a speech which hee made at the Councell of Friuli,

Friuli, holden likewise under *Charles* the Great, and *Pepin* his sonne, gives us to understand that he had beene in divers Councils called by the command of Kings and Princes. For it having oftentimes befallne the humility of my meanesse, to be present at the Generall assembly of a Councell, very famous for reverend fathers, being thereunto summoned by the sacred commands of our Princes. The fourth Councell of *Arles* was holden also in the time of *Charles* the Great, and called by him in the year 813; the Bishops thereof make this prayer for him, *That he (God) would confirme in his faith the Emperour Charles our Sovereigne, by whose commandement we are here assembled.* So likewise the third of *Tours*, the same year 813; 'The time and place being appointed when and where the assembly should bee, we are come to the place appointed, according to the injunction which was laid upon us by so great a Prince. There was another holden the same year 813, under the same Emperour at *Mentz*, at the beginning whereof they speake thus unto him; *Wee are come to the city of Mentz, according to your command.* So likewise at *Rhemes* the same yeere 813, at the beginning whereof it is said, 'This is the order of those Chapters which were made in the year 813, at the Councell of the Metropolitan See of *Rhemes*, called by the most devout Emperour *Charles*, after the custom and fashion of the ancient Emperours. There was also another holden under him, and by his command at *Chalons*, mentioned by divers ancient Historians, who speake also of those others which were holden under him, whereof wee have spoken already. For say they, 'Hee commanded the Bishops also to keep divers Councils for the reforming of the state of the Church: one whereof was holden at *Mentz*, another at *Rhemes*, a third at *Tours*, a fourth at *Chalons*, and a fifth at *Arles*. Wee have the Acts of that of *Chalons* extant, wherein, although *Charles* the Great bee mentioned, yet it is not said that the Councell was holden by his command: And wee may observe the ease to bee just the same in divers other Councils holden in *France*. The same King and Emperour held many other Councils, the Acts whereof wee have not now extant; yet thus much is testified by *Regino*, that he called them; who hath reckoned us up nine or ten after the yeere 770, till 994. King *Lewes* the 6 called the Councell of *Aix* in *Germany*, in the year 816. 'Seeing that (say the Acts) the most Christian and most Illustrious Emperour, *Lewes* by the grace of God, *Victorious*, *Augustus*, had called a holy and Generall Council at *Aix*, in the year of Christs incarnation 816.

8 There is an old Chronicler that sayes it was in 819; and another puts it in 820. There was a Councell holden at *Paris* too, by the command of him and his sonne *Lotharius*, in the yeare of grace 829; and three others at the same time in other places; as is collected from those words in the preface: *Hereupon they ordained that Synods should bee assembled at the same time in four severall convenient places of their Empire.* Besides, this is the very title of the preface, *Here beginneth the preface of the Synod which was holden at Paris by the command of the most Illustrious Emperours Lewes and Lotharius his sonne.* And againe in letters sent by the Synod to those Emperours, *We the most loyall and most devout sollicitors of your salvation, according to the meanesse of our understanding, in obedience to your desire and command, have observed and set downe in these precedent papers such things as concerne Christian religion; which we present unto your clemency to be perused and approved of by you.*

9 There was another Councell holden at *Aix* by his command in the yeare 338. Whereas we Bishops were assembled together by a Synodicall convocation, the most Illustrious and most orthodox Emperour *Lewes*, the most invincible *Augustus*, having summoned us thereunto. And yet another at *Mentz*, anno 834. *Wee are come to Mentz (say the Bishops of it) according to your commandment.* And another at the same place, anno 837. whether the Bishops say they were as-

Councils called by the French Kings.

Concil. Foro. julienſe verſus Princ. to 3.1 Conc. p. 665. Synod. Arelat. 4. ſub Princ. to. 2. Conc. p. 679. Turonenſ. Synod. 3. in Princ. to. 3. Conc. p. 682. Concil. Moguntin. to. 2. Conc. p. 630. Synod. Rhemenſ. in Princ. to. 2. Conc. p. 700. Annales incerti authoris inter Scriptores carolueos Pithet Matth. Weſtm. mon. 19. 1. ſub ann. 813.

V. Regino in Chronicis, ſub annis 770. 771. 772. 773. 776. 779. 787. 788. 704. Concil. Aquil. in Princ. to. 2. Conc. p. 703. Matth. Weſtm. 1. ſub ann. 820. Conc. Paris. in princ. to. 3. Conc. p. 764. Epiſt. Epiſc. ad Imperat. in Actis Concilii Paris. to. 3. Conc. p. 769. Concil. Aquigran in princ. to. 3. Conc. p. 820. Concil. Magunt. in princ. to. 3. Concil. p. 823. Synod. Aquenſis to. 3. Conc. p. 840.

Councils called by the kings of France

Annales incerti authoris apud scriptores coetaneos Pithei.

Concil Valent. in princ. 10. 3. conc. p. 889.

Histoire de Reins l. 2. c. 5.

Histoire de Reins l. 1. c. 1.

Conc. Ticin in princ. 10. 3. conc. p. 894.

Conc. Wormat. in princip. 10. 3. conc. p. 977.

Annales incerti authoris inter scriptores coetaneos Pithei. Jean le Maire en la 2. part. de la difference de schismes. Concil. Tribur. in princip. 10. 3. conc. p. 26.

Jean le Maire au second traite des schismes & des Conciles.

Robertus de Monte in appendice ad Sigiberr. sub anno 1140.

Rigordus de gestis Philippi Augusti. Idem ibid.

sembled By a seasonable and most wholesome order and command from the Emperour Lewes. And this is a Synod of which an ancient French Historian speaks, saying, Rhabanus was created Bishop of Mentz in 847, who by command from King Lewes held a Synod at Mentz the same yeare. The title of this Synod saith that this same Rhabanus was president of it, and not unlikely; but we must understand that this was by authoritie from King Lewes, who, as we have said already, commended him to hold that Synod. There was yet another Councell holden at Mentz under him, and by his command, in 852; where the same Rhabanus was president, the same Emperour being willing to have it so. There was likewise (saith an old French Historian) by the will and command of the same most milde Prince, a Synod holden at Mentz a Metropolitall Citie of Germany, where Rhabanus, the reverend Archbishop of the place, was president.

10 There was afterwards a Councell holden at Valentia under King Lotharius, in the yeare 855, the Acts whereof speake in this manner: The most reverend Bishops of three provinces being, by the command of King Lotharius, assembled together in one body at the City of Valentia, upon occasion of the Bishop thereof, who had beene cited and impeached of divers crimes. The History of Rhemes mentions a Councell at Paris called by the same King: That the Canons concluded and agreed upon at the Generall Councell assembled in S. Peters Church in Paris, by the diligence of King Lotharius, bee inviolably observed. It mentions also another called by Charles the Bald: In the yeare 845 Charles called the Bishops of his Realme to a Synod at Beavis, summoned forth of the Province of Rhemes. King Lewes the second (as we have elsewhere observed) prescribed to the Councell of Pavy, holden 855, what points they should consult upon: whence it follows that that Councell was called by his command as well as the rest. The Councell of Wormes was called by the same King Lewes the second, anno 868: We being assembled in the City of Wormes, in the yeare of grace 868, by the command of our most excellent & Illustrious Sovereigne King Lewes, to treat of certaine points concerning the good of the Church.

11 An old French author tells us that the same King caused another to be assembled at Cullen, anno 870. There was a Synod holden at Cullen (saith he) by the command of King Lewes. John le Maire tells us that Lewes the Smatterer called another at Vienna in the time of Pope Formosus, anno 892.

12 King Arnold held another at Tribur, anno 895, which consisted of a great many both Ecclesiasticall and lay men. In the yeare of our Lord 895, the eighth of his reigne, the thirteenth Indiction, in the moneth of May, the King came by the instinct of the holy Ghost, and the advice of his Princes to the royall City of Tribur, seated within the French dominions, accompanied with the precited Bishops, Abbats, and all the Princes of his kingdome, and a great number both of Ecclesiasticall and Secular persons repairing thither, &c. Now if the King held the Councell, I suppose none will deny but he called it.

13 Hugh Capet wholly reigned in France (saith John le Maire) called a Councell at Rhemes in Champaigne, consisting of the Prelates of the Gallican Church; where he caused Arnalt Archbishop of Rhemes to be deposed.

14 In the yeare 1140, by authority from King Lewes the younger, there was a Synod held at Sens, of the Bishops, Abbats, and other religious, against Peter Abelard, who scandalized the Church by a prophane novelty both of words and sense.

15 Philip Augustus (saith an ancient Frenchman) called a Generall Councell at Paris, anno 1179, of all the Archbishops, Bishops, Abbats, as also all the Princes and Lords of the Realme of France. He called another likewise in the same Citie, anno 1184, to entertaine the Patriarch of Jerusalem, and consult about sending aid against the Saracens. He commanded (saith the same Author) that a Generall Councell should be called of all the Archbishops, Bishops, and Princes

of

of his Realme. The Bishop of Chartres tells us there was another called at Troyes by his commandement.

15 Pope Eugenius the third of that name (saith Le Maire) being come into France, as well to avoid the tumultuous fury of the Romanes as to animate Christian Princes to the beyond-sea voyage, King Lewes the younger, sonne of Lewes the Fat, caused a Councell to be assembled in the towne of Vezelay in Burgundie, of all the Prelates & Princes of France, to whom hee purposed to declare, by the mouth of Saint Bernard Abbat of Clerevale, all the misfortunes that had befallen in the holy Land. There was another called at Paris by the command of Charles the sixth, where he was in person attended by the Nobilitie of his Princes and Barons.

17 So likewise Lewes the eleventh called one at Orleans. Lewes the 12. one at Tours, another at Lyons. King Charles the ninth summoned the Bishops and other Prelates of the Churches within his Realme, by his letters patents of the tenth of September 1560. By whose advice we have concluded and agreed that a generall Assembly of the Prelates and other members of the Churches within our dominions, be held the 20. of January next ensuing, to conferre, consult, and advise what they shall thinke fit to be proposed at the said Generall Councell, if so be it be holden shortly. And in the meane time resolve amongst themselves notwithstanding of all things which may, upon our part, any way concerne the reformation of the said Churches. In a word, it is a thing without all peradventure: so that wee may now conclude, that the calling of Nationall Councils belongs unto the King of France within his owne kingdome. And as oft as we finde that any Councell was holden in France, if there be no particular mention of the calling of it, we must alwayes presume it was by the authoritie of our Kings.

18 Sometimes indeed it was not by their command, but by their bare consent and approbation: as that of Arvergne, which was held by the consent of King Theodebert. The second of Tauris, by consent of King Charibert. That of Meaux by consent of Lewes the younger, anno 846. That of St. Medard of Soissons by consent of Charles, sonne to Lewes the Emperour, in the year 853. One at Cullen under Charles the Grosse, anno 887. and another in France by the approbation of Lewes the father of St. Lewes in the year 1222. And this must be understood of all those Councils which we reade were called in France by the Popes, their Legates, or other Prelates: for this was alwaies done either by the expresse consent of our Kings, or else by their toleration; as hath beene particularly expressed of two, to wit that of Cleremont, and another of Rhemes. Which (as Iohn le Maire saith) were holden by the approbation and consent of King Lewes the Grosse, and whereat Pope Innocent the second was present. Vnlesse perhaps it be some few which were holden against them: as that of Compeigne called by the Prelates of France against Lewes the Gentle: that of Rhemes by Benedikt the seventh against Hugh Capet: that of Dijon by one of the Popes Legates against Philip Augustus: that of Cleremont in Arvergne by Urban the second against Philip, and such like. But for such as these wee may call them spurious and illegitimate Councils, unlawfull Conventicles, and Monopolies; for so Iohn le Maire calls that of Compeigne, although it was called by the consent of Pope Gregory the fourth.

19 Let us now passe over into England, which will furnish us also with variety of examples, and show us this right annexed to the Crowne of their Kings, to use it when they please. In the year 905 King Edward the elder, together with Plegmond Archbishop of Canterbury, called a famous Councell of Bishops, Abbats, and other persons. In the year 1070 (saith an English Monke) there was a great Councell holden at Silchester upon the Octaves of Easter, by the command, and in the presence of King William, the Pope consenting there.

Councils called by the kings of England.

Ivo Carnotensis epist. 28.

Jean le Maire au mesme traité

Idem ibid.

Idem ibid.

Lettres du Roy Charles imprimées à Paris par Michel Vascosan l'an 1560.

Arvernense conc in princip. tom. 2. conc.

Concil Turon. 2. ibid.

Concil. Meldense tom. 3. Conc.

Synodus apud Arum Medardum, in princip. tom. 2. Conc.

Synodus Colon. in princip. tom. 3. Conc. in post. edit.

Jean le Maire en la 2. part. de la differ. des schismes.

Idem en la 2. part. du schisme.

Idem au second traité des schismes.

Rigord de gestis philippi augusti.

Mathieu Westm. l. 1. sub anno 905.

Florentius gornienfis in chronica sub anno 1070.

Winchester

Councils called by the Kings of Spaine.

Math. Westm.
l. 2. ad ann.

1301.

Guilielm. Malmesbur. de gestis Pontif. Anglor.

l. 1. pag. 129.

Poly or Vergil.

Angl. hist. l. 13.

in Hen. 2.

Idem lib. 13. in

Hen. 2. pag. 239.

Idem lib. 16. in

Hen. 2. pag. 316

theremnto. and contributing his authority by his Legates. In the yeare 1301 Edward the first called a Councell at Lincolne. Sometimes the Kings let either the Archbishops of Canterbury call them, or some other of the Clergie who proceeded thereunto onely so farre as they had their leave and consent. So Anselme Archbishop of Canterbury under Henry the first, by his will and pleasure called a Councell at London in the yeare 1102. Pope Alexander the third (saith another English historian) assisted by the favour of the Princes (he means the Kings of England and France) held a Generall Councell at Tours, in the year of grace 1163. King Henry the second of England having quieted the state of Ireland, caused divers abuses, not sufficiently purged out of the Church, to bee reformed and corrected, according to the doctrine of Christianitie; and by a Councell by his meanes holden at Casselles. The same King caused a Councell, consisting of Bishops and other Princes, to bee called at Northampton. King Henry made all his adversaries bee pronounced enemies of their Country by a Councell which he caused to be holden at Winchester, which others call Silchester. Hee that will be curious to enquire into their histories may finde divers other presidents: and yet it may be said that this Kingdome of all others hath bene most subject to the papall power.

20 As for Spaine the Acts of almost all those Councils which wee have in the great collection of them, doe plainly shew us that the Kings had the whole stroke in this matter. For the Preface of the first which was holden at Braque, in the yeer 572, runnes thus, *Whereas the Bishops of Gallicia were met together in the Metropolitan Church of the Province, by the command of the most Illustrious King Aramirus.* And a litle below, *Now then seeing our most glorious and most devout sonne, hath by virtue of his command royall, granted unto us this day, so much desired of our Congregation for us, to assemble our selves all together, let us in the first place treat of the state of the Catholique faith.* In the yeere 573 there was another Councell holden in the same place *By the command of the same King.* In some copies *Miriclias* is named in stead of *Ariamirus*, but that imports not the point in hand. The third Councell of Toledo, where the *Arrian* heresie was condemned ann. 589, was called by King *Recharedus*, as is set downe in expresse termes, both in the Acts thereof, and by divers Historians. The fourth of Toledo was called by the command of King *Sismand*. The fifth and sixth by King *Suintilla*: for besides that it may be proved out of the Acts of them, there is a Prebend of *Barcelona* which affirmes it downright; *This King (saith he) called the fifth and sixth Synod in the citie of Toledo.* The seventh of Toledo was called by King *Sindasund*. The eighth, ninth, and tenth by King *Risifund*. After he was received into the Kingdome, (saith the same Prebend of *Barcelona*) hee commanded three severall Councils to bee held in the Citie of Toledo, under Arch-bishop *Eugenius*. But we have no need of his testimony, for the Acts themselves plainly say as much of those Councils, at least of two of them. The eleventh of Toledo was commanded by King *Bamba*, in the yeer 674. The Acts doe obscurely intimate so, but *Tarafa* clears it: *Bamba (saith hee) after his victory over Paul, and the Gauls, returned to Toledo, where hee commanded the celebration of the eleventh Councell.* So likewise the third of *Braque* was called by him the same yeere, as we have it set downe in the end of the Acts. The twelfth, thirteenth, and fourteenth of Toledo were called by the command of King *Eringius*. The Acts of the first testifie as much directly: those of the second

Bracarense Conc. in princ. Tom. 2. Conc. pag. 823.

Bracarense

Conc. 2. in

Princ. Tom. 2.

Conc. pag. 828.

Concil. Tolet.

2. in princ. Tolet.

Conc. pag. 859.

2 Sigibertus in

Chron. sub. ann.

592.

Math West-

monast. l. 1. sub

ann. 595.

Franciscus

Tarapha de

regibus Hisp.

in Recharedo.

b Concil. Tolet.

4. in princ.

Tom. 3. Concil.

p. 67. Francis.

Tarapha Barci-

nonensis in Sis-

mando.

c Concil. Tolet.

5. et 6. in princ.

Tom. 3. pag. 7.

80. et 83. Tarapha in Suintilla.

d Concil. Tolet. 7. in princ.

Tom. 3. Concil. pag. 81.

Taraph.

in Sindasundo.

e Idem Tarapha in Risifundo

Concil Tolet. 8. in princ.

item 9. in princ. item 10. in princ.

Omnia habentur Tom. 3. Concil. pag. 184. 201. et 204.

f Concil. Tolet. 11. Tom. 3. Concil. pag. 216. 223.

Tarapha in Bamba.

g Concil Bracarense 3. in fine.

Tom. 3. Concil. pag. 227.

h Concil. Tolet. 12. in principio.

item

Tom. 3. pag. 7. 80. et 83. Tarapha in Suintilla. d Concil. Tolet. 7. in princ. Tom. 3. Concil. pag. 81. Taraph. in Sindasundo. e Idem Tarapha in Risifundo Concil Tolet. 8. in princ. item 9. in princ. item 10. in princ. Omnia habentur Tom. 3. Concil. pag. 184. 201. et 204. f Concil. Tolet. 11. Tom. 3. Concil. pag. 216. 223. Tarapha in Bamba. g Concil Bracarense 3. in fine. Tom. 3. Concil. pag. 227. h Concil. Tolet. 12. in principio. item

intimate

intimate so : and for those of the third wee have them not, but the same Prebend of *Barcelona* relates it in this manner ; *This Eringius in the second yeere of his reigne caused the twelfth Councell of Toledo to be holden, which consisted of thirty six Bishops : in his fourth yeere he made the thirteenth be holden, consisting of forty eight Bishops : and the foureteenth in his fifth year, wherein were twelve Bishops : all three under Julian Archbishop of Toledo.* The other foure following Councils of *Toledo*, King *Egytas* assembled: the Acts of two wherof were carried to *Rome* to help to correct *Gratians* Decret's by ; as is mentioned in a note put at the end of the Acts of the thirteenth of *Toledo* : but waiting till they bee put out in print, we shall content our selves for the present with what is delivered concerning this point by the forementioned Canon of *Barcelona* ; King *Egyta* (saith hee) in the first yeere of his reigne (which was the yeere of our Lord 693) caused the fifteenth Councell to bee celebrated, under Julian Archbishop of *Toledo*, consisting of sixty one Bishops : the sixteenth Councell in his third yeere, and the seventeenth in his fourth, under Philip Archbishop of the same Church. Wee shall observe by the way, that these Councils of *Spaine* consisted partly of the Bishops of *Languedoc* a Province of *France* : for there are named in the subscriptions of some of them, the Bishops of *Carcaſſon*, *Narbo*, *Beziers*, *Lodeue*, *Agde*, *Maguelone* (who is now Bishop of *Montpelier*) *Nismes*, and others in the same Province : and this because the greater part of it was then under the dominion of the *Gothes*, who held it together with *Spaine* ; wherfore it is sometimes by our *French* Historians called *Gothia*, *Gottica Provincia*, and *Gothica regio*.

Councils called by the Kings of *Spaine*.

Vid. annotat. posita in fine Concilii Tolet. 13. Tom. 3. Concil. pag. 385. Franciscus Taraphain Egypta.

Vid. Concil. Tolet. 3. in subscriptionibus tom. 2. Concil. pag. 78. Et Tolet. 8. in subscriptionibus pag. 194. Et Tolet. 11. pag. 223. tom. 3.

Concil. Johannes Vassus in Chron. Hist. pag. 446. Vid. Annales incerti authoris inter scriptores coetaneos Pistai sub ann. 732. 736. et 793. Testamentum Caroli Magni apud eundem. Aimonum lib. 5. cap. 17. 35. et 38.

CHAP. VIII.

That it belongs to the Emperour and Kings to appoint the time and place when and where Councils shall bee held, and not to the Pope.



Having proved already that the calling of Councils belongs unto the Emperour and Kings, and not unto the Pope: it follows then that it is for them also to appoint the time and place. Yet notwithstanding we will further confirme it by some examples. It is storied by *Sozomen*, that *Constantine* the Emperour resolved to hold a Councell at *Nice*, upon occasion of the new doctrines of *Antiochus*, and the heresie of *Aetius*, and how by the perswasion of *Basil* hee changed his purpose, and would have removed it to *Nicomedia* ; but by reason that citie was ruined by an earthquake, by the advice of the same *Basil* hee made choice of *Nice* againe ; and how, when there happened another earthquake there too, hee resolved upon the perswasion of one or other, to have two Councils holden at the same time, one at *Seleucia* for the Eastern Churches, and another at *Ariminum* for the Western, which was accordingly put in execution.

a The

The place of
the Council
chosen by
Princes.

Leon's Pope
epist. 23.

V. epist. Leon's
24.

Epist. Theo-
dosi ad Valen-
tin ad Eudoxiā,
ad Pulcheriam.
Item epist. Va-
lentin. et Mar-
tiani, et alterā
Martiani ad
Leonem inter
epist. Pream-
bul. Synod.

Chalced. 10. 1.
Concil.

Concil. Aureli-
anense 2. et 5.
to. 2. Conc.

Conc. Matisco-
nense to. 2. Con.

Niceph. Eccles.
hist. l. 14. c. 34.
Cap. 25. to. 2.

Act. Conc. E-
pbes.

V. eorum epist.
in 1. actione

Conc. Chalced.

Ivo Carnoten-
sis ep. 28.

3 The same Emperour notwithstanding would have left it to the choice of the Bishops to appoint the place where it should bee held, after that misfortune which befell at *Nice*; but when they could not agree about it, hee resolved upon that course which wee have already spoken of. And to see that the nomination of the place belongs not to the Pope, wee need no more but read Pope *Leo's* Epistles, wherein he makes earnest suit to the Emperour *Theodosius*, that the Generall Council which hee entreated for, might be appointed in some citie of *Italy*. The like he did to the Emperour *Valentinian*, and to the two Empresses *Pulcheria* and *Eudoxia*, who all interceded for him to the Emperour *Theodosius*, both for the calling of a Council, and the having of it in some citie of *Italy*: but he would never hearken unto it: and howbeit that after his decease, the Pope made the like instance to the Emperours *Valentinian* and *Martian*; yet hee could not prevaile to have it in *Italy*; but it was first called to *Nice*, and afterwards to *Chalcedon*.

3 And as for our Realme of *France*, when it is said in the Acts of the Councils holden there, *Wee are met together in the Citie of Orleans*, by the commandement of the King, as they speake in the second of *Orleans*; or, *The King having assembled the Clergy in the citie of Orleans*, as they in the fifth of *Orleans* say, and so of the rest, it must necessarily be interred, that the designation of the place was our Princes doing. But the second Council of *Mascon* puts it out of all doubt which might bee raised; for having decreed to hold Councils in *France* every third yeer, it addes, *And this to bee done with the good will of the Prince, who shall appoint a convenient place in the midst of the Countrey for the holding of it.*

4 As for the time without doubt the designing and prescribing of it belongs unto them likewise. This is collected from a place of *Nicephorus* formerly cited, where hee saith that the Emperour *Theodosius* when he had called the Council in the citie of *Ephesus* against the day of Pentecost, Declared by his letters, that hee would not hold him excused that should not appear there at the day appointed. *Theodosius* and *Valentinian* appointed that the first Council of *Ephesus* should bee at Pentecost. The second of *Ephesus* upon the first of August. The Bishop of *Chartres* in a letter of his to Pope *Urban* the second, speaks in this wise of a Council of *Troye* held under *Philip* the first, King of *France*; *By command from the King, the Archbishops of Rhemes, Sens, and Tours have warned their suffragan Bishops to appear at Troye, after your answer shall come, the first Sunday after All-Saints day.*

5 King *Charles* the 9 by his letters patents of the 10 of September 1560, commanded in like manner the Prelates of his Realme to repaire towards *Paris* about the beginning of January, so as they might be all there upon the 20 of that moneth, *To meet and conferre together in the said citie, or some other place neare adjoyning therunto, such as shall bee appointed for them.* This was for the conference which was at *Poissy*. It vexeth us to insist upon things which are so evident. Let those that deny them beare the blame of it.

CHAP.

CHAP. IX.

That it belongs to the Emperour and Kings to adjourne or prorogue Councils, and not to the Pope.



Tis certaine that to whom the convocation belongs, to him belongs also the prorogation, translation, or dissolution of Councils. Yet howsoever it is expedient to make it appeare by some examples, that this belongs of right to the Emperour and Kings. Pope *Leo* having obtained by his instances that a Councell should be called, not in *Italy*, as hee desired, but in the East, he afterwards besought the Emperours *Valentinian* and *Martian* to put it off for a time, but hee could not

Councils adjourn'd by Emperours.

Leo papa ep. 47

entreat so much. Wee will set downe what hee saith himselfe about that matter; 'Wee well hoped (saith hee, writing to the Emperour *Martian*) that your Clemency might have condescended so farre to our desire, considering the present necessity, as to deferre the Council till a better opportunity: but seeing it is your pleasure that it bee holden forthwith, I have sent *Paschasius* thither.

2 The same Emperours having caused that Councell which *Leo* so desired, to be assembled in the Citie of *Nice*, they adjourned it afterwards to the City of *Chalcedon*. That alteration was in very deed made in favour of the Pope: for having earnestly entreated the Emperours, that they would be pleased to honour the Councell with their presence, they caused it to remove to *Chalcedon*, where they then were, as appears by two severall letters written by those Emperours unto the Councell while it was yet at *Nice*.

V. epist. Valent. et Marciani ad ad Nicanam Synod. interpret. ambu. epist. Conc. Chalced. tom. 1. Cont. Theodoret. l. 2. c. 21.

3 *Constantine* the Great had in like manner formerly transferred the Councell of *Tyre* unto *Jerusalem*. After this (saith *Theodoret*, speaking of the Synod of *Tyre*) they went to *Jerusalem*: for the Emperour had commanded that all the Councell assembled at *Tyre* should bee transported thither.

V. libellum constitutionum Synodaliū qui extat in to. 1. Conc. Extat hac relatione inter Constitutiones Synod. to. 1. Conc.

4 The Emperours *Theodosius* and *Valentinian* did likewise transferre one to *Constantinople*, which was held at *Ephesus*. This is gathered from a relation in the letters writ by the Synod of *Ephesus* to certain deputies whom they had sent to *Constantinople* before, to decide a certaine case. 'Forasmuch (say those fathers) as wee who were summoned to this Citie of *Ephesus* for the good of the Church, are now, by the Edict of our Kings, cited over to *Constantinople*, as you very well know. The same Synod of *Ephesus* put this superscription to their letters written to the Emperours, To the most devout Emperours *Theodosius* and *Valentinian*, the Synod assembled at *Ephesus* according to your Edict.

5 They proceeded yet further when they sent to seeke whole Synods in grosse, making them come unto them out of one Province into another, to give an account of their actions: as the Emperour *Constantine* did, who made that of *Jerusalem* come to *Constantinople* to justify the depofall of *Athanasius*. *Theodosius* did the like to that of *Ephesus*.

Socr. l. 1. c. 22. Zonaras to 3.

6 *Charles* the fifth made the Pope know at the Councell of *Trent*, that he

Z

was

Who Preti-
dents in the
Chalcedon
Council.

*Steidan l. 19.
versus finem:
not contradi-
cted by Surius
nor Pontanus.
Reverus Pon-
tani lib. 4. re-
rum memorabi-
lium sub anno
1547. pag. 374
Jean le Maire
en la 2. part. de
la differ. des
schism.*

was not well catechized in the Article of the Popes omnipotency, nor that power of Councils, which consists in the translation and removing of them; insomuch that hee caused some rude protestations to be made by his ambassadours after the translation of the Council from *Trent* to *Bonony*, both against the Pope and that Council: for hee made them tell them amongst other things, 'That they could not remove it, or alter the place, but with the consent of the Emperour, who hath the tutorage and protection of all Councils: that they had no authority to transferre the Council: that seeing they made no reckoning of the common salvation, the Emperour therefore as the protectour of the Church, would take the charge of it.

7 As for our Kings wee need not doubt but they had the same authority, considering they had power to dissolve Councils after they had assembled them. So *Lewes* the 11 was used to doe, witnesse *John le Maire*; 'Vpon a time (saith he) King *Lewes* the 11 assembled the *Gallican* Church, and all the Universities together in a Council in the Citie of *Orleans*; aswell the better to understand the substance of the said Pragmaticke Sanction; as also to take order for the Annates of Church livings. By which exaction the extreme greedinesse of the Court of *Rome*, did vex and impoverish the Realme of *France*, by raking up every yeere a marvellous great summe of money. The President of this Council was the late Monsieur *Peter de Bourbon* Lord of *Beauren*. But as soone as ever the points were brought in question, in came the King, who had altered his resolution, and ere any other conclusion was determined, hee gave every man leave to depart. Saying that he would call them to *Lions* hereafter. Which was never done.

CHAP. X.

That it belongs to Emperours and Kings to prescribe the forme to Councils, both for persons and matters, and other circumstances.

*Vid eorum Imp. I
epist. in 1. tom.
Act. Concil. E-
phes. cap. 25.
Extat eorum
Epist. in 1. Act.
Concil. Chalced.*



He Emperours *Theodosius* and *Valentinian* writ to *Cyrill* Bishop of *Alexandria*, to bring with him unto the first Council of *Ephesus* certaine other Bishops out of his Province; namely, such as hee should thinke fit and able men. The same Emperours enjoyned *Dioscorus* Bishop of *Alexandria* by virtue of their letters to take unto him to the number of twentie Bishops, eminent for their faith and learning, and to bring them along to the second Council of *Ephesus*, which they had cal-

*Sozomen, lib. 4.
cap. 15.*

led to be holden upon the first of August. It pleased the Emperour *Constantinus* (saith *Sozomen*) to call a Council at *Nicomedia*, a Citie of *Bithynia*, and to cause such Bishops of every nation as should there be found fittest to consider of things wisely, and sufficient to apprehend and argue subtilty and learnedly, to repaire thither with all diligence upon a day prefixed; who might represent unto the Synod the whole Clergy of their severall provinces.

They allowed also whom they pleased to go into Synods. So by the Emperour

perour *Martians* command there were certaine Priests and Monkes of *Egypt* brought into the Councell of *Chalcedon*. Notwithstanding all opposition to the contrary, they proposed what points should be disputed, and prescribed what matters should be treated of. The Emperours *Constans* and *Constantius* gave the Councell of *Sardis* leave to dispute questions, and examine things anew, without standing to what had beene therein already determined by former Councils. So the Bishops of that very Councell assure us in those letters which they sent to Pope *Iulius*. 'There were three things to be handled, for the most religious Emperours gave us leave to dispute anew of all that had beene formerly determined: and especially of the holy faith, and integritie of that truth which they had violated.

Princes proposed the matter of Councils.

Actio 2. Concil. Chalced. tom. 1. Concil.

Exstat hac Epist. in fragmentis D. Hieron.

3 *Iustinian* did the like at the fift Generall, holden at *Chalcedon*. *Martian* forbade that of *Chalcedon* to dispute any otherwise about the nativitie of our Lord and Saviour *Iesus Christ*, than according to the determination of the Councell of *Nice*. The Emperours *Theodosius* and *Valentinian* writ to the first Councell of *Ephesus*, how they had sent *Candidianus* their Ambassadour to the Councell, to whom amongst other things they had given this in charge, to see that no other question were proposed till such time as the controversies then a foot were first decided. And accordingly doe the Bishops of that Councell speake in their letters to those Emperours: *Wee being assembled at Ephesus for no other cause than to consult and treat of the faith, according to your holy Edict.*

P. Martiani oration. in 1. act. Conc. Chalced.

Cap. ult. to. 1. Act. Conc. Ephesus.

Cap. 22. tom. 4. Act. Concil. Ephesus.

Ephesus. 2. 219

4 Our French Councils afford us very pregnant proofes and presidents hereof; for in the most of them our Kings caused them to consult about such points as they proposed; and did often call them together of purpose to take their advice in doubtfull cases. King *Clotys* sent certaine heads or chapters unto the first Councell of *Orleans*, which himselfe had called, there to be discussed. Which being put in execution accordingly by that Synod, the resolutions were sent unto him by the Synod, and submitted unto his judgement.

Concil. Aurelianense tom. 1. Conc. pag. 1045.

Concil. Aurelianense tom. 1. Conc. pag. 1045.

Concil. Matisc. 2. tom. 2. Conc.

5 King *Guntrand* called a Synod at *Mascon*, chiefly to make a decree against those that travell upon the Sunday; which hee confirmed afterwards by his Edict directed unto the same Synod. 'We will and command (saith hee) that what we here enjoyne by virtue of this Edict be from henceforth inviolably observed: inasmuch as wee have caused those things which wee now publish, to be determined (as you know) and judged at the Councell of *Mascon*.

Concil. Matisc. 2. tom. 2. Conc.

6 *Carloman*, who is called Duke and Prince of the French, assembled a Councell in *France*, anno 742, (the place wee know not) to take advice of it, 'How he might reestablish the law of God and religion, which had been trodden under foot and overturned in the time of his predecessors: and by what meanes Christian people might compass their salvation, and not suffer themselves to be seduced by false Priests.

Synodus Franca tom. 2. concil. p. 456.

7 The Emperour *Lewes the Gentle* made an exhortation at the Councell of *Aix* in *Germany*, (which hee had there assembled) when he came into it; wherein hee advised the Bishops to take a course with some things which hee then proposed, and which stood in need of reformation: hee prescribed also a certaine forme unto them, which they were to follow, and which was applauded by the whole Councell.

V. Concil. Aquisgranense in princip. tom. 2. Conc. p. 638.

8 The same Emperour having by his authoritie caused a Councell to be assembled at *Pavy*, he sent certaine points unto them, commanding them to deliberate upon them, and that with this clause: 'We send these chapters unto you, to consult upon them, and let us know your advice: for some things of lesser moment which concerne the generall (yet so as they touch upon some mens particular) and stand in need of reformation, wee will that you passe your sentence upon them, and send it to us afterwards.

Concil. Ticinen. in princip. tom. 2. Concil.

9 The

Presidentis pro-
posed the mat-
ter of Coun-
cels.

*Synodus Parisi-
ensis in princip.*

*Concil. Paris.
tom. 3. Concil.
noviss. edit.*

*Sugerius Abbas
in vita Ludovi-
ci Crassi.*

*Jacobus Meie-
rus in annalibus
verum Flandri-
car. sub anno
1398.*

*Concil. Tolera-
num 4. in princ.
tom. 3. Concil.
pag. 67.*

*Marsilius Pa-
ravimus in de-
fens. pac. 2.
part. cap. 30.*

9 The Emperours *Lewes* and *Lotharius* called a Synod at *Paris*, anno 824, to deliberate upon the point of images. So say the Bishops there, 'About the businesse which your Pietie commanded us, namely about the case of Images.

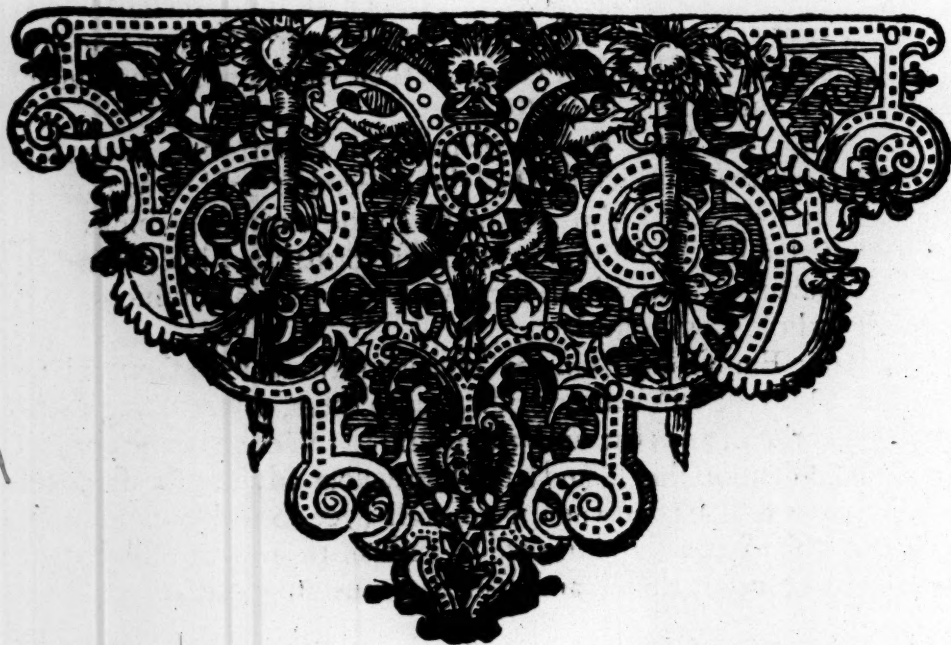
10 The same *Lewes* and *Lotharius* his sonne proposed likewise certaine heads or Chapters to another Councell by them assembled at *Paris*, in the Acts whereof the Bishops, addressing their speech to the Emperours, do say, 'Your Serenitie hath collected all that seemed worthie of correction at this present, into certaine heads. Vpon which heads they did deliberate.

11 *Lewes* the *Grosse* having called a Councell at *Estampes*, he made them consult whether he should acknowledge Pope *Innocent*, who was fled into his Realme, or no. And upon the advice there taken, he approved of his election, and did acknowledge him.

12 *Charles* the sixth having called a Councell at *Paris*, the yeare 1398. to consult about the schisme which then was betwixt *Boniface* the ninth and *Benedict* the thirteenth, 'He would not suffer the Archbishops and Bishops of *Rhemes*, *Roan*, *Sens*, *Paris*, *Beauvis*, and some others to assist there, because they were *Benedicts* partizans, by reason of the great courtesies they had received either from him, or his predeceffour.

13 The Bishops of the fourth Councell of *Toledo* use this preface which is very remarkable: 'Wee being assembled in the Citie of *Toledo* by the care and diligence of King *Sisenand*, to treat in common of certaine points of Church discipline, according to his injunctions and commands. Wee will conclude this Chapter with a passage of *Marsilius*: 'Humane lawgivers (saith he) are bound to chuse out fit men for the keeping of Councils, and provide necessaries for the defraying of their charges: to compell such as refuse, to come thither, provided they be able men, and have beene chosen, whether they be Clergymen or others.

CHAP.



CHAP. XI.

That the presidence in Councils belongs to the Emperour and Kings, as also the judgement.



He calling of Councils doth not onely belong to Emperours and Kings, but also the presidence and judgement in them. *Constantine* the Great was president in that of *Nice*. So Pope *Miltiades* testifieth in *Gratians Decrees*. *Valentinian*, *Theodosius* and *Arcadius* the Emperours doe confirme it in the same *Decrees*. *Constantine the Emperour* (say they) presided in the holy Councell of *Nice*, &c. The reasons which are urged to the contrary are too weake to disprove these authorities: as when it is objected that *Constantine* would have sit upon a low seat in token of humilitie: that he would not be judge among the Bishops, but professed that he ought to be judged by them: that he would needs subscribe unto the Acts in the last place. It is not good to use so many complements with Popes: that which is given unto them of courtesie, is taken as of necessity. This yeelding hath made them soar so high, that if this Councell bee received, wee must talke of greater matters than kissing their pantoffe. If they who defend the Popes cause so stoutly refuse to beleieve their Canons, at least without a dispensation, what others will doe, judge you. *St. Ambrose* his authoritie which is further added, is of no more force than the rest. *Constantine* (saith he) would not make himselfe judge, but left the judgement free to the Clergy. Wee must distinguish betwixt the function of a Judge, and of a President. They would have made him Judge of the Bishops crimes, that hee would not doe: this is nothing to the Presidence: we shall speak of it elsewhere. The saying of *Athanasius* is the most pressing of all, in that complaint which hee makes against the Emperour *Constantinus*, who would have been President and Iudge against him in the Councell of *Milan*; yea and that so as to condemne him. The condemnation was indeed injult; but O how passion blinds us in our owne cause! the good man to prove the nullity of the judgement, urgeth amongst other things, that it cannot bee a lawfull Councell wherein a Prince, or any other Lay man is President. For (saith hee) if it bee a judgement of Bishops, what hath the Emperour to doe there? Hee exclaimes mightily against such Presidence, but all because hee was condemned there. If hee had beene acquitted, he would have beene sure not to have said mum to it. Hee condemnes in this what hee approves in a like case; for when hee was deposed by the Councell of *Tyre*, he had recourse to *Constantine*; he presents himself before him to make his complaint, and was a meanes that the Emperour sent to seeke all the Councell to render a reason of that action of theirs. If a man should have said then, If it be a judgement of Bishops, what hath the Emperour to doe with it? What would *Athanasius* have answered?

2 The grand controversie in point of religion betwixt the Catholique Bishops and the *Donatists*, which was spread over all *Africa*, was decided at *Carthage* by *Marcelline*, one of *Honorius* the Emperours Officers, after a long dispute in his presence. Read all the books and you shall never finde that ever they complained of him. Nay on the contrary *St. Austine*, who was one of the

Princes Presidents in Councils.

can futuram

12. q. 1.

Can. Continua.

11. q. 1.

Bellarm. de

conc. lib. 1. cap.

19. tom. 1.

Athanas. apol. 2.

Idem in ep. ad

solitariam vi-

tam agentes.

Socr. l. 1. c. 22.

Socr. ibid.

Gest. Collationis

Carthage inter

Cath. et Dona-

tistas.

Princes Preti-
dents in Coun-
cels.

Can. Vbinam.
dist. 96.

Zonaras annal.
tom. 3.
Nicolaus Papa
1. in ep ad Mi-
chaelem Imper.
Cap. 32. tom. 1.
Astorum Conc.

Evagrius l. 1.
c. 10.

the disputants, to testify his gratitude for his just sentence, dedicated his books *De civitate Dei* unto him. Pope *Nicholas* admittes them unto Councils, when points of faith are there handled: yea and all other Lay men too without distinction, whether it be to judge or to preside there.

3 If a man will suppose mee here an ignorant Prince, it would bee a very great *indecorum* for him to engage himselfe in such matters as these, and hee had better forbear: yea and just so had a Bishop too. But if the Prince have learning and ability, what reason is there to exclude him? It would indeed suite better with the dignity of his person to let disputing alone to the Bishops, yea and the ordering of the whole action to some one of them or other, such as hee shall thinke fit; alwayes reserving to himselfe the Presidency, with the determination, confirmation, and putting in execution the Decrees, after hee hath seene and considered of them. It is no jesting matter when salvation is in question: a Prince hath as deep an interest in this as a priest. But let us hold on our course.

4 *Zonaras* testifieth that the Emperour *Theodosius* assisted at the first Councell of *Constantinople*; and therefore wee may inferre that hee was president of it, for wee read of no other that tooke that place upon him, as we shall say elsewhere. As for that of *Ephesus*, *Theodosius* the younger sent *Candidianus*, one of his Officers, to preside there: but with a limited commission, having first charged him not to intermeddle with quettions and controversies of divinity. And this is the reason why *Cyrill*, the chiefe indignity of all the Patriarchs who were there in person, is by some authours called the President of that Councell.

5 *Dioscorus* Patriarch of *Alexandria* did preside at the second Councell of *Ephesus*, by authority from the Emperour *Theodosius*. This we collect out of the first Action of the Council of *Chalcedon*, where the Judges that were presidents say, *How the Right reverend Bishops, to whom at that time, (that is, at the time of the Councell of Ephesus) by the Emperours clemency, authority was given over such things as should bee there treated of, give a reason why the letters of the most holy Archbishop Leo were not read; yea and when it was interposed, that they ought to bee read. Dioscorus the Right reverend Bishop of Alexandria made answer, The Acts themselves beare witnesse how I did twice interpose that they might be read.* This is further confirmed by *Evagrius* in his Ecclesiasticall History.

6 *Bellarmino* thinks he hath given us very good content, by saying, that against all equity hee extorted this Presidence from the Emperour: and he thereupon urgeth the authorities of *Zonaras* and *Evagrius*: But by his Graces leave hee imposeth upon them both: For see what the former saith; *Eutyches went to seeke Chrysaphius the Eunuch, whom hee had brought over to his side, and led him in a string, who being in great credit with the Emperour, obtained of him, that Dioscorus, who governed the Church of Alexandria after the death of Cyril, might bee called to Ephesus with other Bishops, and the opinion of Eutyches there examined.* The other in his first booke and tenth Chapter, saith, *Dioscorus, who succeeded in the Bishopricke of Alexandria after the death of Cyril, was appointed President of the Councell.* For to kindle more hatred against *Flavianus*, *Chrysaphius, the governour of the Palace, had laid this plot very politiquely.* These authours in their discourses blame the carriage of the businesse, and the plot which was laid for the approbation of *Eutyches* his doctrine, and the condemnation of *Flavianus*: but they never say, nor ever meant to say, that the Emperour was to blame in taking of the Presidence from the Pope, and conferring it upon another. It may bee said furthermore, that Pope *Leo* rejected this Councell; but it was because of the unlawfull proceedings of it, just as wee condemne this of *Trent*: But for the calling of it, that was so far from being

being unlawfull, that the Pope himselfe had his Legats there.

7 The Emperour *Martian* did preside at the Generall Councell of *Chalcedon*, both at the beginning, and the sixt Action thereof: and at the opening of it hee made an oration himselfe to the Congregation, as *Constantine* the Great had done at that of *Nice*, wherein amongst other things he forbid them to dispute of the nativity of our Lord and Saviour *JESUS CHRIST*, otherwise then according to the determination of the Councell of *Nice*. And that *Because* (saith hee) *we will assist at the Councell for confirmation of the faith, not for ostentation of our vertue.* Which words *Bellarmin* hath made a nose of wax, affirming that the Emperour doth thereby protest he would not assist there as a Judge. And passing from better to worse, hee further addes, that in the succeeding actions, there were indeed some secular Judges that presided in the Emperours name, but it was only to see there were no tumult or disorder, and not as Judges of faith. If the Acts of that Councell were locked up in the Archives at *Rome*, as many other monuments are, then wee might hold our peace: But being exposed to the view of all the world, I am constrained to say, that this is to deal too saucily with the truth. It is plaine from those Acts that seven Officers of the Empire, and eleven Senatours were not only Presidents, but, which is more, Judges of all controversies, which were handled and determined there. They put interrogatories both to one and other: they pressed arguments against such as held any erroneous opinions: they threatened to condemne them: they told Pope *Leo's* Legats, when they desired that *Dioscorus* Patriarch of *Alexandria* might be cast out of the Councell, that if they would become his accusers, they must depose the person of Judges: they commanded that such Acts should bee read as were exhibited to the Synod: they caused men to give their suffrages: they pronounced the sentence. In brieft, as oft as the Popes Legates are named in the Councell of *Trent*, so oft and oftner are these Judges and Senatours mentioned in that of *Chalcedon*. Shall wee now then averre with confidence that they were not Judges? What doe they meane then who ascribe the Presidence and judgement in this Councell to the Popes Legates? *They sit in the highest place, (so they say) they speake the first, they subscribed the first, they pronounced the sentence against Dioscorus Bishop of Alexandria in the name of the Pope and the whole Councell.* Here is enough to pierce to the quicke, here's an *ergo* well shod with frost-nailes. But let us take one peece after another.

8 *They sit in the first place.* Yes, after the Judges and Senatours; and they sit not as Presidents, but as deputies for the chiefe Primate or Patriarch. *They speak first.* Yes, at the beginning when they exhibite a libell against *Dioscorus*, and when the Judges and Senatours told them, that seeing they made themselves parties against him, they could not assist at the judgement; and at the end too when they put up a complaint against the whole Councell, for giving the Patriarch of *Constantinople* the next degree of honour after him of *Rome*, for setting bounds and limits to either of them. As also in the third Action, whereof wee shall speake anon. *They subscribe the formost.* Yes, in the same third Action, but not elsewhere, *They pronounce the sentence against Dioscorus.* This is it that presseth hardest. But hearken to the answer; Of all the Actions of that Councell, (which are sixteen in number) there were two at which the Emperour himself was President, thirteen at which the Judges and Senatours whom the Emperour had deputed, and one wherein one of the Popes Legats presided. Observe how that came to passe. There was neither Judge nor Senatour present in that Action: whereupon when there was a controversie about speaking, *Paschasius* the Popes premier Legat, gave the company to understand, that hee had commission from his master to preside in that assembly: for, saith he, *Hee hath commanded our wannesse to preside in the*

Councils ad-
joined by
Kings.

V. Acta Conc.
Chalced. rom. 1.
Conc.

Council

Popish argu-
ments answer-
ed.

Councell in his stead : and therefore it is necessary that what ever be proposed it bee determined by our interlocution. Hee never durst speake of this presidency in any manner, so long as the Emperour or his officers were there. In the ensuing Actions hee never proceeded to any act of a President.

Conc. Chalced.
Act. 16 tom. 1.
Conc. p. 938.

9 All this makes against the Pope : for from hence wee conclude, that where the Emperour or his Officers are, there the Pope nor his Legates have no right to preside. In case they be absent, it stands with good reason that some one of them that are of prime ranke and quality manage the affaires ; or else that they proceed in this case by election. Which they would never condescend unto, so much as for one day : and yet it is an ordinary thing in all societies. Now for priority of honour and dignity, there is no question but it belonged to the Bishop of *Rome*, as being Patriarch of the chiefe citie in the Empire. This is evident from the very Acts of this Councell of *Chalcedon*, in the sixteenth Session, whereof they say, *The Fathers have granted certaine privileges and prerogatives to the See of old Rome, because it is the imperiall citie.* Nor did the Pope dispute this title of presidency against the Emperour and his officers, but only against the other Archbishops and Bishops For behold the very clause inserted in his instructions to his Legats : *By all meanes preserve the dignity of our person, considering that wee send you in our place and stead : And if there bee any that undertake to usurpe any thing, relying upon the lustre of their cities, (this aimes especially at the Patriarch of Constantinople) repell all such enterprises with that courage which is requisite.*

10 It is an easie matter now to answer all the objections of this great Disputer. The pronouncing of the sentence against *Dioscorus*, was done in this third Session. The Iudges and Senatours tell us so in the next action, yea and that by way of complaint; *Your Reverence* (say they, speaking to the Council) *must give account before God for the case of Dioscorus, whom you have condemned without the Emperours knowledge and ours.* The Synod saith in their letters to the Pope, *That hee is in that Councell as the head to the members.* That is either in respect of the Presidency in that one Action ; or in respect of other Bishops ; but not in reference to the Emperour and his officers : with whom these Popes Legats never once contelted, but ever gave place to them with all willingnesse ; taking it for a great honour to supply their place and execute their charge in their absence.

Leo papa epist.
47. ad Marrian.
Imperat
Idem ep. 24. 25
26.

11 Some of our age have left upon record, that Pope *Leo* had an aime at this Presidency, and that hee required it at the Emperours hands. But in good time, the Doctour himselfe gives them the lye. For *Leo* himselfe, in one of his letters to the Emperour *Martian*, saith in plain termes, *But forasmuch as some of our brethren (wee speake not this without grieve of heart) have not had the meanes of expressing a Catholique constancy against the storme of falshood, it is fitting that Bishop Paschasin, whom I send, preside in my place.* And in very deed he complained both to the Emperours and Emperesse of *Dioscorus* Bishop of *Alexandria* his being president at the Councell of *Ephesus*.

Stanislaus Ho-
sius l. 2. adver-
su Prolegom.
Brent. Acto 2.
Conc. Chalced.

12 But here is that which seemes to bee more pressing than all the rest : namely that the Emperour and his officers were not Iudges of controversies of faith, nor pronounced any sentence in those points, but submitted themselves to the sentence of the Bishops: in short, that they were only to guard the action from troubles and tumults. *Bellarmin* is the man that affirms it, and one of the Presidents of the Councell of *Trent* before him. All this is pointblanke against the truth of the Acts. When the question was about debating some point of faith, the Officers of the Empire (who are constantly called Iudges throughout all the Acts of that Councell) and the Senatours caused that to bee rehearsed which had formerly beene determined at the Councils of *Nice* and *Constantinople* concerning that particular ; and withall Pope *Leo's* Epistle which

which hee writ to *Flavian* Archbishop of that citie. And because there were some Bishops which doubted of that faith, the Iudges and Senatours decreed that the matter should bee put off for five dayes; during which time *Anatolius* Archbishop of *Constantinople*, should make choice of some few of the most learned, to instruct them that were not fully resolved, so as the whole Synod should not need to trouble themselves about it. Hereupon there being a diversity of opinions; some approving of that Decree, and others not, the Iudges pronounced, *That which wee interposed, shall be put in execution.*

Presidents in
the Chalcedon
Council.

To 1. p. 879.

13 In the fifth Action they caused every Bishop to make rehearfall of his Creed, and the rule of faith to bee read; and ordained further that certain Bishops should be chosen and shut up in *St. Euphemia's* Oratory with *Anatolius* the Archbishop, and the Popes Legats, in the presence of the same Iudges. Some of the Bishops falling at variance hereabouts, the Iudges ordained that it should bee referred to the Emperour: who, being perfectly informed of all, confirmed the Decree of the Iudges, which was afterwards put in execution. The Bishops elect being assembled together with the Iudges, to treat of matters of faith, after they had all agreed upon them, went to the Synod to acquaint them with their resolution. But it is requisite to set down the very words. First it is said, *And the Judges being entreated thereunto by all the rest, went into the Oratory of St. Euphemia, with Anatolius the Reverend Archbishop of Constantinople, Paschasin and Lucentius Right Reverend Bishops, Boniface the Priest, and Iulian the Reverend Bishop of Cos, deputies for the See Apostolique of the great citie of Rome, &c. And after they had treated of the holy faith, they came forth and all sate downe. The most magnificent, and most glorious Judges said, The holy Synod is pleased peaceably to heare what things have been determined by the holy fathers assembled together in our presence, who have also expounded the rule of faith.* Afterwards the determination concluded upon and put in writing was read; which contained a ratification of what had been formerly determined by the Councils of *Nice* and *Constantinople* in that behalfe. In the next Action the Emperour being come himselfe in person, confirmed that very Creed, and enacted that from thenceforth it should bee embraced.

To 1. Conc.
pagg. 879. 880.

14 See here a discourse somewhat of the longest indeed, which yet was no lesse than necessary, to convince such as will beleeve nothing without good warrant. I will further observe, to doe them a courtesie, that *Paschasin* the Popes Legat, in his subscription to that Creed, useth this forme; *Paschasin Bishop, in stead of the most honourable Leo Pope of the Catholique and Apostolique Church of the citie of Rome, who presided at the Synod, hath ordained, consented, and subscribed hereunto.* Which must bee imputed to the vanity of the man; for the truth is, he presided not in that Action wherein this rule and Creed was made, but the Iudges; as hath beene said. And which is more, when they are spoken of that were nominated to make it in the presence of the Lay Iudges, the Popes Legats are thrice put after the Patriarch of *Constantinople*.

Act. 4. Conc.
Chalced. rom. 1.
pagg. 987. 880.

15 Now I demand further yet, if the Popes Legats had presided in all these Actions, what would they have done more than these Imperiall Iudges did? They would have made the proposalls, they would have chosen a certain number of Bishops to draw the forme of confession; they would have caused their resolution to be read, which is all one with the pronouncing of the sentence: they would have interposed their authority, as the Emperour did in person, that the matter might carry the more weight with it. If they will say that they would have given voices, which the Lay Iudges did not doe; wee answer, It cannot bee collected from the Acts of the Council, that the Judges did not give their opinions too; for whereas they say, *The determination was made in*

A a

their

President of
the Council of
Chalcedon.

their presence, they doe not deny that that they had any voice in it. But I will grant they did not give their owne opinions: yet they were the Iudges of others opinions, and might reject what was resolved upon by the Synod, in case they found it to be unjust; this is farre more than to give a voice. And indeed when the Synod cryed with one voice, That they would stand to that definition of faith which had beene rehearsed, the Iudges contradicted it, saying, that it was defective, and that it was requisite to adde something to it: which was the cause why they met in the Oratory of St. Euphemia, where the forme of faith was drawne, as hath been said. I will transcribe the whole passage:

16 *The Bishops cryed with a loud voice, Let the definition stand, or else let us dye. The most magnificent and Right honourable Judges said, Dioscorus did say, I admit that of two natures. The most holy Archbishop Leo did say, There are two living natures inconfusibly, inconvertibly, indivisibly, in the one and onely Sonne of God I E S V S C H R I S T our Saviour. Which of the two doe you follow? Whether holy Leo, or Dioscorus? The right reverend Bishops shouted, Wee beleve as Leo beleved, those that doe otherwise are Eutychians. Leo hath well expounded it. The most magnificent and Right honourable Judges said. So then you adde to the rule of faith, according to our holy father Leo's opinion, that there are two living natures in Christ, inconvertibly, inseparably, and inconfusedly. And these Right honourable Judges, being entreated thereunto by all the rest, went into the Oratory of St. Euphemia, together with Anatolius, &c. And after they had treated of the holy faith, they came forth, and all sate downe. And the copy of their determination was read by the appointment of the Judges, as wee said before.*

17 Now if wee shall make it yet appeare that the Iudges opinion was followed, and that addition which they insisted upon was admitted. What can be said more? Now marke what it containes amongst other matters; So then consenting to the holy Fathers, wee teach all with one accord to confesse one and the same Sonne I E S V S C H R I S T our Saviour, to be one in two natures, inconfusedly, immutably, indivisibly, inseparably. If this may not be called judging of matters of faith, then I may put up my pipes.

18 Yet for the further clearing of the point in hand, wee will compare the Presidence of the Popes Legats in one Action, with that of the Iudges; to see if they wrought any greater wonders than the Iudges. See first the power which they assumed, *That such things as should bee proposed might bee judged by their interlocution.* The Iudges had the very same power of interlocution: For at the end of the second Action thus they speake, *That which wee interposed by interlocution takes effect.* And at the beginning of the seventh, *The Right honourable Judges said, Wee have thought it necessary to give notice of these things before the holy Synod, to the intent that what shall bee resolved hereupon, may bee confirmed by our sentence and interlocution.* The Legats pronounced the sentence of condemnation against Dioscorus: So did the Iudges the sentence of absolution for Theodoret in the eighth Action: The words are these; *The Right honourable Judges, according to the decree of the holy Council, said, The most holy Bishop Theodoret shall receive the Church of Cyrrha.*

19 It must bee further observed that Bellarmin was a litle too hasty when hee read the Council of Chalcedon: else hee might have found that what he calls the pronouncing of the sentence, was no more but a bare proposall made by the Popes Legats unto the Council, to cause the assembly to consult upon it: and that this is true, see here their conclusion: *So as this great and holy Synod ordaine what shall seeme good unto it in the case of Dioscorus.* And afterwards follows the giving of voices. Besides, by his account all the Popes Legats that were

AB. 3. Concil.
Chalced. in. pr.
to. 1. Con. p. 835.

Bellar. l. 1. de
Conc. c. 19.
Conc. Chalced.
AB. 3. in fin. to.
p. 847. et 545
Leo ep. 47. Con.
Chalced. AB. 6.
to. 1. Con. p. 835
858. 889.

were present at the Council, should have been Presidents; which is not true; for none but *Paschasin* was: As appears by Pope *Leo's* request to the Emperour *Martian* in that behalfe; and that of *Paschasin*, then when hee officiated as President; and by the subscriptions both of himselfe and his fellowes; for hee only and none else takes upon him the quality of President.

Presidents of
the Council of
Constantinople.

20 Let us now come to other Councils. *Iustinian* the Emperour did not preside himselfe in the Councell of *Constantinople*, holden under him in the time of the Patriarch *Mena*; but hee determined of the Presidence: that is, hee chose and nominated the Presidents of it; to wit, the Patriarch of *Constantinople*, with whom hee joyned as assistants those whom the Pope sent. Hear what the very Acts of that Councell say concerning this point; *After the Confulship of Belisarius the most holy and most happy Oecumenicall Archbishop and Patriarch Mena being President in the citie of Constantinople, the most excellent and most holy Bishops Sabinus and Epiphanius, sent out of Italy by the See Apostolique, sitting upon his right hand as coadjutors by the command of Iustinian the Emperour.*

V Synod. Constantinop. sub
Iustini. 10. 2.
Conc. p. 579.

21 It is objected that this Councell was not Vniversall. I grant it; but so as it bee granted mee withall, that neither was the Pope universall; and that it belonged not unto him to preside in all Councils. If hee had any right to preside in Generall Councils, much more had hee in nationall; especially then when hee was called unto them, or was present at them upon any occasion.

22 As for the fifth General Council, which is the second of *Constantinople*, holden under the same *Iustinian* by his command, wee shall make it appear that all things were carried there by him and his authority; although himselfe were not present at it, no more than Pope *Vigilius*, who having travailed from *Rome* to *Constantinople*, and being there at that time the Council was holden, yet had never the courage to goe unto it.

23 The Emperour *Constantine* the fourth was President of the sixth General Councell of *Constantinople*, and divers of his Officers assisted there by his command; whose names and qualities are registred in the Acts of it. Loe here the words; *The same Emperour Constantine being President, in a place of the Palace which is called Trullus: there being present there as auditour Nicetas Exconsul and a Patrician, and maister of the Offices Imperiall, Theodorus exconsul & Patrician, &c.* Which is repeated in every Action of it. And as for the Popes Legats, they are indeed marshalled in the first place amongst the Patriarches and Archbishops, but not as Presidents, but because the priority of honour amongst the Clergy belonged to the Pope. Where it is to bee observed that in Councils ordinarily, the Legats and Vicegerents tooke the same place of honour that belonged unto him that sent them. And of a truth in the Acts of this same Councell, there is one *Peter* a Priest and Monke, the Patriarch of *Alexandria's* Legat, placed betwixt the Patriarches of *Constantinople* & *Antioch*: and another Priest and Monke called *George*, the Patriarch of *Ierusalem's* Legat, put between the same Patriarch of *Antioch* and the other Bishops. The like may bee seene also in the Acts of the second Councell of *Nice*.

Sexta Synod.
Constan. tom. 3.
Conc. p. 237.

23 This Councell is wholly approved by the Pope. And it is yet further observable in it, that the five Patriarches were all there in person, or by proxy; which was not so in any of the rest. All this is out of question; but here's the doubt: *Bellarmino* pretends that Pope *Agatho* by his Legats presided there. Hee utgeth *Zonaras* for prooffe of his assertion, who makes nothing for him, but indeed against him. See here the passage entire: *Constantine called a Councell at Constantinople, the chiefe whereof were Pope Agatho's Legats, George Patriarch of Constantinople, and Theophanes Patriarch of Antioch: for Alexandria and Ierusalem had no Patriarchs at that time, being then taken*

Beil. tom. 1.
Contr. 4. 1. 1.
c. 19.

Zonaras Annal.
10. 3. in vita
Constantin. 4.

Whopresident
in the Councel
of Constanti-
nople.

Lambertus
Schaefnabur-
gensis Derebm
Germanich.
p. 151.

Act. 24. 5. 9.
11. 12 et alia.

Bellarmin. de
Concil. l. 1. c. 19.

Sexta Synod.
in Trullo. in
prefat. apud
Balsamon. p.
192.
Balsamon in
Comment. ad 6.
Synod. in Trullo
circa princip.

by the Saracens. When hee saith (*Chiefe*, or *Princes*) hee doth not meane (*Presidents*) for so all the Patriarches should have beene Presidents there, seeing the word relates unto all : which yet *Bellarmino* denies to bee so. If wee would expresse it in plaine English, wee should say *chiefe* and *principall*, for that is the genuine sense of the author.

24 If wee should admit of other Presidents over the Clergy besides the Emperour, it would not bee the Pope, but the Patriarches of *Constantinople* and *Antioch* : for hearken what *Lambert* an old *Dutch* Historian saith of it; *Constantine called the sixth Synod, at whose request Pope Agatho sent his Legats to the royall Citie, amongst whom was John, then Deacon of the Church of Rome. This sixth Councell was holden at Constantinople, where there were present one hundred and fifty Bishops, George Patriarch of the Imperiall Citie, and Macarius of Antioch being Presidents. Hee calls them Presidents because either of those two Patriarches were there in person, and the rest onely by their deputies.*

25 In the next place *Bellarmino* saith, they are named first in all the Acts. Hee should have said, they are named first after the Emperour, and all his Officers that assisted there. That is, first among the Clergy ; this is the honour which belonged to *Rome*. But hee addes further that they speake first. I know not where he learn'd that, but I dare beleieve hee never read it. I desire no more for prooffe of what I say, but the Acts of the Councell themselves. For of all the eighteen Actions of that Councell, in most of them the Popes Legates doe preside so honourably, that they speake never a word. In the first they put up a complaint : in some others they deliver their opinion as other men doe, sometimes in the first place, sometimes in the last, sometimes after a good many. Besides, this order is observed, the Secretary alwayes proposeth, and the Emperour determineth in the eleven first Actions and last ; and in all the rest, the two Patricians and two *Exconsuls*, whom hee sent and substituted in his place. And in pronouncing their Decrees, both the Emperour and the Judges by him delegated, doe alwayes say, *The Emperour and the holy Councell*, or *The Judges and the Holy Councell*, said, appointed, commanded, ordained, &c. No such matter with the Popes Legates. Nothing passeth without the Emperour and his Officers, be it they treat of points of faith, or what else so ever: they discusse controversies in divinity as well as the Bishops. To bee short, a man cannot collect ought out of the whole story of this Councell, but that the Emperour and his Officers were Iudges and Presidents of it. And yet some dare say, that the Emperour was no Iudge nor formall President of it ; that he pronounced no sentence there : And for subscription, all the Clergy signed first, and the Emperour last of all. His Officers did not subscribe at all ; it was not the fashion : their masters subscription was sufficient. And for his subscribing first or last, it is neither here nor there to the cause. If the Popes Legats had presided but in one Action only, as at the Councell of *Chalcedon*, they would have beene carefull not to forget that title of honour in their subscription. It is a strong argument to prove they had not the Presidence neither in show nor substance; for otherwise they would surely have told us some newes of it.

26 As for the other sixth Generall Councell of *Constantinople*, in *Trullo*, the Emperour *Iustinian* the second did not onely call it, but presided in it. The Bishops thereof addresse these words unto him in their preface ; *Our Saviour Christ hath given us in you a wise gouvernour, a pious Emperour, and a true President*. Wee know very well this Councell is rejected, but we are yet to learn the just reasons of this repulse ; for *Balsamon*, Patriarch of *Antioch*, assures us the Popes Legats assisted there.

27 Wee have formerly by the way made mention of the Conference at *Carthage*,

Carthage, betwixt all the *African* Bishops both *Catholiques* and *Donatists*, called by the command of the Emperour *Honorius*: who were summoned thither by the Imperiall Officers, who disputed all along before *Marcellinus*, the President and Iudge delegated by the Emperour; who in fine passed his sentence of condemnation upon them.

28 *Otho* the first surnamed the Great, called a Councell at *Rome*, the yeere 953, and presided in it. There was a great Councell held at *Rome* (saith *Lambert*) (wherein the Emperour *Otho* did preside) with a great multitude of Bishops, Abbats, Priests, Clerks, and Monks, by whose determination *Bennet* was deposed from the See *Apostolique*. This was *Bennet* the fifth, in whose stead *Leo* the eighth was created Pope.

29 *Otho* the second sonne to the former, being arrived at *Ravenna* in the yeere 967, (saith *Regino*) and having there kept his Easter with Pope *Iohn* the third, hee there assembled divers Bishops of Italy, and *Romania*, and himself keeping the Councell, he invented many things to the profit and behoofe of both Church. Therefore he was President and Iudge in the Councell.

30 The Emperour *Henry*, the sonne of *Conrade*, being beyond all patience displeased with the excessive Simony, which had got foot amongst the Clergy, called an assembly of all the Archbishops and Bishops of his Empire: so saith *Glaber* Monke of *Cluny* in the last chapter of the fifth booke of his History. After he had made remonstrance unto them of divers things concerning that point, hee set out an Edict over all his Empire, (saith the same authour) That no degree or Order of the Clergy or Ecclesiasticall Ministry should be purchased for money: and whosoever should be found to have given or taken any thing, should be deprived of all his honour, and be accursed. You see then hee was Iudge and President of the Councell. Wee shall then conclude for hereafter, that not only the Presidence in Councils, but the judgement also belongs unto the Emperours.

31 Whereunto wee will adde, as touching this last point; That from the beginning to the end of the Councils, all matter of action was performed by the Emperours, or those to whom they committed that charge. The Convocation was made by them: the place was appointed by them: the forme of meeting and treating was prescribed by them: the number of persons, both Clergy and Layty was stinted by them: they forbade some and commanded others to come there: oftentimes they proposed the points which they would have consulted of; and prohibited the mentioning of any other: they guided the action, caused the rest to give voices, disputed cases, passed their sentences, approved the determinations which were agreed upon, whether they were absent or present: and many suchlike things they did.

32 And yet for all this some would bear us in hand that they were no more but spectators, without contributing any thing thereunto besides their authoritie: or to speake more properly, that they were but the porters and doorekeepers of Councils; the executers of their decrees. Which honour is preserved unto them by the Councell of *Trent*; for hearke how they speake of them in the 22 Canon of the last Session; The holy Councell also exhorteth all Kings, Princes, Common-wealths and Magistrates, and by virtue of holy obedience commandeth them to interpose their aid and authority for the assisting of the foresaid Bishops, Abbats, Generals, and others that have the charge and superintendence of putting the said reformation in execution, every time, and as oft as they shall bee required so to doe. And at the end of the same Session; It remaines now that it exhort in the Lord (as it doth) all Princes, so to employ their paines, that they suffer not such things as are decreed by us to bee depraved and violated by heretiques; but that they and all others devoutly receive them, and faithfully observe them. Good God! where is now the time that Coun-

Emperours
presidents in
Councils.

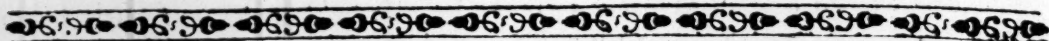
*Gest. Collationis
Carthag. habita
Honorii iussu,
inter Catholi-
cos et Donatist.
Lambertus
Schafnaburg.
de rebus Germ.
sub ann 963.
Adde Reginon.
in Chron sub.
ann. 963.*

*Con. Trid. S.
25. cap. 22.*

*Conc. Trid.
Sess. 25 c. 23.
de recipiendis
decretis.*

Who President
of the Nicene
Council

cels entreated the Emperour with so much honour and submission and humbleness of spirit to confirme their decrees? yea when they came in corps from one Province to another to finde him out, to acquaint him with them, to entreat him to assent unto them, and to authorize them?



CHAP. XII.

That the Pope did not preside in Generall Councils.



Having proved already that the Presidence in Councils belongs to Emperours and Kings, it is good to inferre, therefore there is no reason the Pope should arrogate it unto himselfe exclusively to all others: and that the Council of *Trent* is by good right rejected in *France*, because hee tooke upon him to authorize it. The Pope may yet pretend that this right belongs unto him, at least by way of concurrence with others. Hee would make us beleeve upon *Bellarmines* word, that by meanes of his Legats hee alwaies presided in Generall Councils. Wee have made it appeare that it is not so. Hee may say perchance that at least hee presided in many of them. Let us now prove the contrary; which will be an easie matter to doe. Wee have already shewed that *Constantine* was President in that of *Nice*. *Bellarmino* saith it was the Popes Legats, who were in number three, and amongst them *Hosius* the *Spanish* Bishop was one. Marke his reasons: *They all three* (saith he) *subscribed first*. True, but not in the quality of Presidents, (they never say so) but as supplying his place to whom the first ranke of honour amongst the rest of the Patriarches doth belong. And to prevent a reply, *Bellarmino*, saith the same *Hosius*, was President of the Council of *Sardis*; and yet we find one and twenty, or more that subscrib'd before him. This is ordinary in all the ancient Councils, that hee who was most eminent in Ecclesiastical dignity subscribed first, not he that presided. There needs no more to prove this, but to peruse the subscriptions, which wee have for the most part at the end of the Acts.

Conc. Sardicens.
ad fin.

2 In the next place hee saith, *Cedrenus* and *Photius* affirme, *That Pope Sylvester by his Legats gave authoritie to the Council of Nice*. I grant it; but so did the other Patriarchs as well as he, for without them a Council cannot be called Generall. And further, there's none denies but the See of *Rome* carried alwayes a great lustre, and that in consideration that the Citie was the head of the Empire; but the conclusion is not worth a rush, to say, therefore hee was President there.

Athanas. in ep.
ad solitatem
vitam agentes.

3 For a third reason he serves himselfe of the authority of *Athanasius*, who writes, *That Hosius was the Prince in that Council, and that he was the man that compiled the Creed*. But wee must consider that the word *Princeps* in that place doth not signifie *President*. But when *Athanasius* useth it, or *Zonaras* the verb *ἐξέταξε*, or another the verb *ἐπιμαρτυροῦν*, they meane those that were the principall in the Council for dignity or knowledge. So when *Zonaras* speaks of those Patriarches that were present at a Council, he calls them all *Princes of the Council*. And speaking of the second Generall, he saith, that *The Great Bishop Gregory Nyssen, and St. Amphilochius were the Princes in that dispute*. And for *Hosius* he was the Bishop, that by reason of his learning over-

Zonar. co. 3. an.
nat.

top'd

top'd all the rest, not onely in this Council but in all others wheresoever hee was present. And this is the reason why the same *Athanasius* in his second apology saith, *What Council is there where hee was not Prince? Or who is hee that was able to withstand his Orthodox opinion? What Church is there that hath not the most excellent monuments of his defences?* So then here's the point: Hee drew all the world to his opinion, hee was admired for his learning and discourse, and for that reason hee was as the Prince, or chiefe above all the rest, Ergo he was President. We deny that argument.

The Pope not President in the second General.

4 It is also agreed upon that the Pope did not preside at the second Generall Council, which was holden at *Constantinople*, neither in person, nor by his Legats. It is true, *Bellarmino* observes one thing which he thinks very advantageous for him; which is, *That the Emperour sent unto the Bishops the Popes letters, whereby they were summoned to the Council:* But wee have already made it appeare that *Bellarmino's* wits were a wool-gathering when he made this exposition, seeing the Popes letters to the Emperour doe not decree that convocation; but on the contrary the Pope summons the Easterne Bishops by virtue of the Emperours letters; as wee have shewed elsewhere at large. Hee excuseth the Pope for not being present at that Council of *Constantinople*. We admit of his excuse, but we intreat him withall to beleewe, that though hee had beene there hee should not have presided, unlesse it had beene the Emperours pleasure. For whereas hee saith, the Bishops of that Council doe by their letters acknowledge the Pope for their head, and call themselves his members; we deny that it is ought so. They doe not direct their letters to the Pope, but to the Council of *Rome*, which had writ unto them, and whereto they returne an answer. Afterwards they call themselves members of the Council, but doe not speake a syllable of the head. What can he gather thence for the Pope?

5 *Bellarmino* concludes, that *Nectarius* Bishop of *Constantinople* did preside in the Popes absence. But I doubt of that, for I have read in *Theodoret*, that the Council of *Constantinople* begun before this *Nectarius* was admitted Patriarch; who was formerly a Patrician and Senatour, and by consequent a Lay man. Which is further confirmed by the letters of the same Synod of *Constantinople* to that at *Rome*, where it is said, *We have created Nectarius Bishop of Constantinople, in the open face of the General Council with unanimous consent, before the Emperour Theodosius, and all the Clergy, the Citie likewise consenting thereunto.* This being so, I am afraid wee must bee forced to seeke the presidence in some other than *Nectarius*. And without doubt the Emperour was the man, let *Bellarmino* say what he will, who removes him far from the Council; telling us how he sent the Popes letters thither, which contained the convocation of it. The Council hath already enformed us by their letters which they sent to *Rome*, that the Emperour was present at the election of *Nectarius*. And *Zonaras* testifies that he assisted at the Council after the creation of *Nectarius*. Great *Amphilochius* (saith he) desired the Emperour, that the *Arrians*, who spoke ill of the sonne of God, might be banished the Citie, or at least prohibited from having any assemblies: but perceiving that *Theodosius* sat light by it, having taken a time of purpose when *Arcadius* the Emperours son sat in the Council with his father, he did unto *Theodosius* both in word and gesture that honour which was due unto him as Emperour: but unto *Arcadius*, he said no more but, God save you my sonne. Whereat the Emperour being offended, this holy man told him; You, who are but a man, take it beinously out that your sonne should be sleighted, doe you thinke that God is not offended also that his only sonne should be evill spoken of?

Theod. l. 5. c. 8. Zonaras. fo. 3. annal.

Extrat in AB. Conc. Constan. to 1. Con. p. 407.

Bellar. l. 1. de Conc. c. 19.

Zonaras. tom. 3. annal. p. 90.

6 Come wee now to the third Generall Council which was holden at *Ephesus*. It hath been said above, that *Theodosius* the younger sent one *Caudianus*

Presidents of
the Council
of Ephesus.

dianus thither for his part to preside there, but with a limited power, not to intermeddle with points of divinity. This limitation was a reason why there was another to manage the action; to wit, *Cyrill* Bishop of *Alexandria*, namely for such matters as *Candidianus* had no commission to deal in. Now the question is, whether *Cyrill* was chosen by the Emperour, or by the Council, or assumed the presidence as of right belonging to himselfe. And it is further questionable, whether he presided in the quality of the Patriarch of *Alexandria*, or of the Popes Legat. We cannot well resolve either one or other of these questions for want of authorities, for the ancients doe not specifie whether he had this Presidence by election, or intrusion, or toleration. And for the other query, wee have nothing to say to it for certaine. Hee was president, 'tis true; he was the Popes Legat, 'tis true too. But for all this it will not follow that the Presidence was granted unto him as the Popes Legat, for so the rest of the Popes Legats should have been Presidents aswell as he, which no ancient authour ever yet affirmed. So all the places which are brought to prove the Popes Presidence in that Council, in the person of his Legats speake but of *Cyrill* only: whence it follows that they exclude the rest from it.

V. to. 1. A. B.
Conc. Eph. c. 16.

A. B. Conc. Eph.
to. 2. c. 17.

A. B. Conc.
Eph. to. 2.

7 There is yet a very notable reason, which is, that before there was any talke of this council of *Ephesus*, the Pope had sent *Cyril* in his stead to put the sentence in execution; which was by him pronounced in his Council at *Rome* against *Nestorius* Patriarch of *Constantinople*, in case he did not relinquish his heresie within ten dayes after admonition. For behold what the same Council saith of it in their letters writ to the Emperours *Theodosius* and *Valentinian*; Celestine the most holy Bishop of Great Rome, signified by his letters the sentence passed by him and his Council at *Rome*, before any Synod was assembled at *Ephesus*, and had delegated *Cyril* to put in execution what had been adjudged by him at *Rome*, and sent him in his place and stead. And indeed the Pope, thinking no more of that delegation, sent afterwards other Legats for the Council of *Ephesus*, which yet did not preside there. Which plainly shewes that *Cyril* was president in some other quality than of the *Roman* Legat: seeing they who had particular and expresse charge from the Pope to assist at that Council for him, and who came in fresh in his behalf, had more right so to do, than hee who had beene onely delegated by him to put a sentence in execution.

8 For the fourth Generall Council which was that of *Chalcedon*, it is plaine from what we have said of it already, that one of the Popes Legats presided only in one Action, and that in the absence of the Emperour and his Officers, and not as a true President neither, but as one who found himselfe to bee the most worthy person in degree of honour; neither the Emperour nor the Council having made other election: besides, that the Pope strongly affected this presidence, that he writ to the Emperour about it; that he complained to all the world of it; that hee had given instructions to his Legats that they should be sure to take the place without suffering themselves to be prayed to it, yea without being invited to it. Nor can there be any advantage for the Pope taken from that which *Zonaras* saith in the third Tome of his History, That the Pope was Prince of that Council: for that signifies he was one of the heads: for *Zonaras* speaks as much of the other Patriarchs, calling them Princes or prime men of the Council. The Princes of this Council were (saith he) *Leo* Pope of *Rome*, *Anatholius* Patriarch of *Constantinople*, and *Juvenal* of *Jerusalem*.

Photius in lib.
de septem Syno-
dis.

9 For the fifth Generall, which is the second of *Constantinople*, *Bellarmino* grants that *Eutychius* Patriarch of *Constantinople* presided at it, and not Pope *Vigilius*: but he addes that *Vigilius* might have beene president if he would. He proves his assertion by the authoritie of *Zonaras*, who makes against him if we reade the passage entire, and not by halves, as hee cites it: for (saith hee)

Under

Under Eutychius (that is the Patriarch of Constantinople) the first Council was assembled, consisting of 153 Fathers, of whom Vigilus Pope of Rome was Prince, and Eutychius, of whom we have spoken already, and Apollinaris (Patriarch) of Alexandria. See here, the Pope was not president himselfe alone, but had his associates, which he will not allow. And therefore wee must have recourse to what we have said before, that the word *Prince* is taken for the principall among the Clergie, whether for learning or dignity: and this is the reason why all the Patriarchs (amongst whom he of Rome is chiefe) are called *Heads* or *Princes* of the Council; but there can nothing be inferred from thence for the preſidence. And to the end that we may put this exposition out of all question, (which is in it selfe most true) over and above those passages of *Zonaras*, whereof we have spoke already, wee will yet produce some to that purpose out of the booke entitled, *An explanation of the holy and venerable Synods*, printed at Paris the yeare 1553 out of the Kings library. Where it is said of the first *Nicene* Council, *At which Council Sylvester Bishop of Rome, Alexander of Constantinople, Alexander of Alexandria, Eustachius of Antioch, and Macarius of Ierusalem were heads or presidents.* Those were the five Patriarchs which were present there, either in person, or by their Legats. Where notwithstanding (to give notice of it by the way) wee may observe a mistake in the author, who by way of anticipation reckons the Bishop of Constantinople amongst the Patriarchs, not remembring that he obtained that degree of honour at the second generall Council holden at Constantinople: and hither also must that other passage of the same author be referred, *The Presidents of this Council were Damasus Bishop of Rome, Nectarius of Constantinople, Timothy of Alexandria, Cyrill of Ierusalem, Melerius of Antioch, Gregory the Great the Divine, Gregory Nyssen, & Amphiloehius of Iconiū.* He reckons the five first as Patriarches, and the three last as great Doctors, famous for their learning. *Zonaras* saith, they were chiefe in the dispute, using the word *μεγέτην*, which the Latine translation renders *Principes fuere*. For the third General holden at *Ephesus*, he speaks thus of it: *In this Council Celestine Bishop of Rome, Cyril of Alexandria, Juvenal of Ierusalem, and Memnon of Ephesus were Presidents.* This last is ranked also amongst the chiefe, by reason of his worth and learning. Of the fourth General holden at *Chalcedon*, he saith, *At which Council Leo Bishop of Rome, Anatolius of Constantinople, Juvenal of Ierusalem, and Maximus of Antioch were chiefs and Presidents.* Of the fifth General at Constantinople, *The heads of which Council were Vigilus Pope of Rome, Eutychius Bishop of Constantinople, Apollinaris of Alexandria, Domnus of Antioch, and Damianus of Ierusalem.* Of the sixth General holden at Constantinople, *The chiefs of which Council were Agatho Bishop of Rome, George of Constantinople, Peter the Monke, deputy for the Bishop of Alexandria, and Theophanes of Antioch.* Of the seventh General held at *Nice*, *The Presidents of which Council were Hadrianus Pope of Rome, Tarasius Bishop of Constantinople, Politian of Alexandria, Theodoret Bishop of Antioch, Elias of Ierusalem.* In all which passages it is in the Greek *ἐν ᾧ τοῖς ἐκ τῆς συνόδου*: and in the Latine translation, *Cui Concilio præsuerunt*. You see then the Pope is well accompanied in his pretended Preſidence. Hee is continually named first for his degree of honour before, not for his superexcellence above the rest. And besides hee is reckoned first only amongst the Clergie, for as for the Emperours and their Officers, they tooke place of all in Councils, as is evident from the Acts: But let us come back to *Bellarmino* againe.

10 That other passage which he alledgeth out of *Eutychius* the Patriarch of Constantinople's letter to Pope *Vigilius* seems to be more pressing, where hee saith, *Wherefore wee desire to treat and conferre upon these points with joynt forces, Presidente nobis vestra beatitudine*, under your preſidence. These words

Princeps Concilii
quid sit
meaneſt

Libellus ita in-
scriptus, San-
ctorum & ve-
nerabilium
Conciliorum ex
habitabili orbe
convocatorum
explanatio. Ex-
cusa Parisiis
apud Martinum
Juvenem ann.
1553.

Zonaras, to. 3.
p. 30.

Presidens in the
6th Generall
Council.

*Justinian. in
ep. ad Episc.
Syn. Const. 5. in
Act. Concil.
Constant. 10.
2. Conc. p. 496
Ibid p. 500.*

might be spoke by way of complement, in manner of a kisse-your-hand, or proffer of service: But however wee must of necessity confesse two things: First, that the Emperour *Justinian*, however he was not present at the Council, had authority there notwithstanding, for he call'd it; he sent the poynts which they were to deliberate upon; he commanded them to appeare at the Synod with the rest of the Bishops. *Wee have commanded him (saith he) by our Judges, and by some among you, to meet you, and treat in common with you of the points aforesaid.* It is true the Pope excused himselfe, saying, *Hee could not come, (these are his very words) because there were a great many Easterne Bishops at the Council, and hee should have but a few Westerne with him there.* And this he alwayes insisted upon, saying, that hee would only give his advice upon three points which had been proposed by the Emperour; and that in such sort, that the Bishops of the Council were offended with him: for see here what they say of him at last; *And whereas hee proffered to give his advice by himselfe alone, after he had beene divers times invited by us all to come hither, and by the right honourable Iudges sent unto him on the behalfe of the most devout Emperour after he had notice of that answer: having the Apostles admonition in minde, That every one shall give account to God for himselfe; and also fearing that judgement which is laid up for those that offend one of the litle ones, much more when they offend the most Christian Emperour, whole Nations and Churches; and that which the Lord said to St. Paul, Feare not, but speake, and be not silent, for I am with thee, and no body shall do thee harme, We therfore being assembled together, have acknowledged in the first place, &c.* 2 The next is that the Pope would never condescend to assit at that Council, though (as it follows from these very passages) hee was entreated thereunto both by the Emperour and all the Bishops therein. In-briefe, hee desired alwayes to act his pageant apart, and would not entermedle himselfe among the Easterne Bishops. Wherefore nothing can be collected hence which makes for the Popes advantage. But on the contrary, whosoever shall read all the acts of that Council, will finde it is a thing much redounding to his disgrace; that hee should be resident in the same Citie after a Council was there assembled, and being requested to goe to it to treat of points of great importance, that hee should refuse to communicate with his brethren and fellow-Bishops, as it is related in the very Acts. And without doubt this is a mighty breach in his universality; especially seeing he excuseth himselfe for not comming into the Council, because he had but a few Western Bishops with him: for he thereby confesseth he had no great authority over the rest: Yea it is one of the strongest arguments that can be brought to prove that the presidence in Councils belonged not to him; it being very probable that if so, he would have forborne comming thither: Which *Bellarmino* in his workes doth not greatly dissemble.

11 The Acts of the sixt General Council, which was the third of *Constantinople*, tell us in downright termes, that *Constantine* the Emperour was President of it, and not the Popes Legats.

*Sexta Syn. Const
in princip. 10. 2.
Conc. p. 282.*

12 As for the second *Nicene*, which is counted the seventh, it is not said in the Acts thereof, that the Emperours assisted at it, for they were absent. There are indeed certaine Officers and Senatours which were present through all the Acts, but not in the quality of Presidents or Judges. As for the Popes Legates they are named first in every action, and subscribed in the first place; but nothing can be concluded thence for the Presidence. This was only granted unto the Pope, because hee was chiefe in Ecclesiasticall dignity. It is a hard matter to know who had the Presidence in that Council, because when the question is of decreeing, or pronouncing any thing, the Council is made to speak in corps, as on this manner, *The Council saith. The Council ordaineth.* Yet is

not

not this carried so closely but it may appeare that *Tarasius* Patriarch of *Constantinople* managed the action; seeing for the most part he proposeth and decreeth: yea, and when the question is of giving voices, the Popes Legates come in the first place, and he in the last to make the conclusion, as in the third Action. And besides those Legats shew themselves so seldome, that hee that shall read all the Acts will never take them for Presidents. But observe I pray that which gives a shrewd blow to the Popes Presidence. When the Councell was finished, *Those which had celebrated it* (saith *Zonaras*) repaired to *Constantinople*, where the Acts of the Councell were read in the Palace royall, the Emperour presiding there, and upon the audience of every Action, they were approved and subscribed unto by them.

Presidents in the eight General Councils.

Zonar. tom. 3. in Constantino & Frene.

13 As for the eighth General holden at *Constantinople*, I professe the Popes Legats presided there: onely I entreat the reader to observe in his perusall of the Acts, in what manner they make their Presidence passe for good; they take good heed of not forgetting that title as in the former; and it is credible they would have beene as carefull then, if it had beene in their power. In the first place they produce their commissions and instructions, wherby they are charged by the Pope to preside there: they met with such Emperours as they desired, that is, so honest and respective, that they not only yeilded the Presidence to them, but (which is worse) they would not signe the Acts till after the Bishops and Delegates; as is testified in their subscriptions. Certaine Princes and Lords, which assisted at that Synod by the Emperours command, were also so milde and courteous, in imitating their maisters example, that the Popes Legats having requested them to put some interrogatories to certain men who were come into the Councell concerning a petition preferred by them, they replied, *In obedience to your request, and upon your command wee will examine them, not of our owne power, for this power belongs to you.* To be short, it cannot be denied but the Pope was truly the President of that Councell. So that we need not marvaile that he did such an ill office to *Charles* the Great, as to condemne his Councell of *Francfort*, considering he did not vouchsafe to devolve the presidence upon him.

14 Now we affirme yet for all this that this courtesie ought not to be drawn into an argument: that the Emperours might well prejudice themselves thus, but not their successors. Yea it may be said that what they did in this case is a nullity, seeing that by the very Decrees of Pope *Alexander* the third, no man can forfeit a priviledge which is granted to his order, ranke and dignitie. That because a man hath presided in one Councell, he must not therefore pretend that the whole presidence belongs unto him, and that the Emperour who was wont to preside in all, hath no more right ever after.

Cap. si diligenter Extra de foro Compet.

15 All this then being proved to be true; That the Emperours called Councils; That they, and not the Popes, presided in them; That when they pleased, they had the whole stroke and authority in them: who will not henceforth startle to hear the language of Pope *Nicholas* to the Emperour *Michael*? Where did you ever read (saith he) that your predecessors had ought to doe in any Councell, unlesse perchance in some one, wherein matters of faith were handled? Wee aske him on the contrary, where did he ever read, that they had not to doe? Yet we are much beholding to him for that exception, unlesse in some one. The language of *Leo* the tenth and his Councell of *Lateran* is yet more frightfull: The Pope of Rome alone, as having authority over all Councils, hath full power and right to call, transference, and dissolve Councils.

Can. Phinam. Dist. 96.

Vid. Conc. Lateranense ultimum sub Leone 10.

CHAP. XIII.

Of the Præfidence of Kings and Princes, in Councils.

Kings of
France Præfi-
dents in Coun-
cels.



^a Apud autho-
rem De vita
Caroli Magni.
Et Annales in-
certi author.
inter scriptores
coetaneos Pi-
thæi.

^b Apud eundem
auth. De vita
Caroli Magni.
^c Regino sub
annis 770. 771.
772. 775. 776.
779.

^d Synod. Fran-
cofurt. in epist.
ad Præsules
Hispan. tom. 2.
Conc. p. 655.

^e Synod Fran-
cofurt. in libello
Sacrosyllabo.
to. 2. Conc. p. 640

Conc. Aquisgr.
1. in princip.
to. 2. Conc. p.
638. et 639.

Annales incer-
ti author. inter
scriptores coe-
taneos Pithæi.

Having spoken of the Præfidence of the Emperour and the Pope: it remaines we speake of that of Kings in the Councils & Synods of their own realmes. And for France we shall here marshal the examples of Charles the Great, Lewes the Gentle, and other French Emperours, howbeit they might have beene disposed amongst the former. It is reported in the life of Charles the Great, *At that time King Charles held a Synod at Valentia.* And ^b again in the life of the same Prince; *He, together with the French in generall, held a Synod at Gennes; and there dividing his army, hee marched towards mount Senis.* So saith ^c Regino divers times when he speaks of Charles the Great, *The King held a Synod*: the words in Latine are *habuit, tenuit*, which signifie, both his presence and his præfidence. The Acts of the ^d Synod of Francfort say in plaine termes that he præfided there; for hearke how they speake of him in their letters to the Bishops of Spaine; *We have all met together by the command of the most pious, and most glorious King Charles, who præfided amongst us, to repaire the State of the Church.* Yea, which is more, he disputed there about matters of faith, and therefore it is probable hee delivered his opinion concerning them. ^e Upon a day (say the Acts) being all at the Palace, the Priests, Deacons, and all the Clergy being seated circular-wise, in the presence of the said Prince, there was a letter brought in, sent by Elipend, Bishop of Toledo, who had committed a most enormous crime, and being read aloud by the Kings command; that reverend Prince rising up on a suddaine from his chaire of State, continued standing, and discoursed of matters of faith for a long time together; adding at the close, *What thinke you of it?* And the Canons and Decrees of that very Councell informe us of much more: namely that Charles the Great was the author of them, for hee is the speaker. The fourth begins thus, *The most pious King our Lord ordaineth with the consent of the Synod.* At the sixth, seventh, and eleventh, the King and the Councell both speake, *It is decreed by the King our Lord, and the holy Synod.* And at the tenth, *It is decreed by the King our Lord, or by the Synod, &c.*

² Lewes the Gentle at his entrance into the Councell of Aix, made an exhortatory speech, wherein he warnes the Bishops to provide for some things by him specified, which stood in need of reformation: hee prescribed unto them a set forme which they were to follow; which was highly commended by all the Synod; yea, and approved in all points: besides, he furnished them with divinity books which they might make use of. All this is related in the Preface of that Councell, whence it may bee inferred that hee præfided there.

³ We read in an old French Historian, that Rhabanus Archbishop of Mentz, præfided in two severall Councils holden in that Citie by the command of Lewes the Gentle. But the same authour tels us plainly, that it was the same Emperours pleasure, and in his absence: seeing that in the Acts of those Councils, at least of the first (for the rest wee have not) the same Rhabanus and all

all the Synod speake continually of the Emperour with a great deal of humility, even referring all to his judgement. But heark what the forecited author saith of it; *Orgarius Bishop of Mentz, dyed in the yeer 847, and Rhabanus succeeded in his place, who by command from King Lewes held a Synod at Mentz the same yeere.* The title of that Synod imports, that *Rhabanus* presided in it; whence it follows that it was by virtue of the Emperours command. The same author saith, *In the yeer 852, there was a Councell holden at Mentz, the Metropolitan Citie of Germany, by the will and command of the said most renowned Prince, Rhabanus Archbishop of that Citie being President of it.* A litle after he addes further, that at the same time while they treated of Ecclesiasticall matters, the King was imployed in publique affaires, and that they sent their Decrees unto him to bee confirmed: a certaine testimony that the presidence was conferr'd upon *Rhabanus* by the Prince.

French Kings
Presidents.

4 King *Charles* the Bald was present at the Councell holden at *Pistia* upon *Sein*, in the yeer 863. Hee is named first: the Decrees are conceived in his name; whence it follows that hee presided there. Wee may make the like inference of all those other Councils which run in the name of our Kings, or to speake more properly, where our Kings speak and decree such things as are proposed, with the advice of the Clergy; of which kind we find good store: for without doubt either they themselves presided in them, or others for them.

Conc. in loco qui
dicitur *Pistia*.
10.3. Conc. p. 900

5 King *Arnold* after he had called the Councell of *Tribur*, in the yeer 895, presided there himselfe, as may be collected from that epistle which contains the Preface: which is likewise avouched in plaine termes at the end; *In this holy Councell, the devout Prince, and most renowned King Arnold being President, and imploying himself about it, the holy fathers and Reverend Pastors of the Church, which came thither, were all seated.*

Conc. *Triburi-*
ense 10.4. Conc.
p. 26.

6 *Philip Augustus* call'd a Councell at *Paris*, ann. 1184, at which he presided, as is collected from the words of the author, who speaks thus of it; He commanded a Generall Councell to bee called at *Paris*, of all the Archbishops, Bishops, and Princes of his Realme; which he having kept with them by common advice, by his authority royall hee enjoyned the Archbishops, Bishops, and all the rest of the Ecclesiasticall Prelats, by their frequent Sermons and exhortations, to perswade the people committed to their charge, to goe to *Jerusalem* to defend the Christian faith, against the enemies of the crosse of Christ.

Rigordus in lib.
de gestis *Philippi*
Augusti sub
ann. 1184.

7 When King *Lewes*, the father of *St. Lewes* reigned in France, (saith *John le Maire*) and Gregory the ninth of that name sate in the See Apostolique, in the yeere one thousand two hundred twenty six, *Romanus* the said Popes Legat came into France; by the will of the King there was a Councell of the Gallicane Church assembled, whereat the King and the said Legat did preside.

Jean le Maire
en la 2. Partie
des schismes.

8 In the yeer 1286 there was a Councell holden, consisting of all the Prelates and Barons of France, Against Pope Boniface the eighth, where King *Philip* was present in person, and presided at it, reckoning up all the outrages and injuries which hee had received from that Pope Boniface, saith the same author.

Idem ibid.

9 The Ordinance of *Charles* the sixt in the yeer 1408, makes mention of certaine Presidents by him established at a Councell holden at *Paris*; Not long agoe (saith hee) it was proposed and demanded by our Atturney Generall at a Councell holden at *Paris*, consisting of the Bishops and Clergy of the Churches within our Kingdome, and Dauphiny, where our cousen *Lewes* King of Sicily, our eldest sonne Duke of Aquitain and Viennois, the Duke of Bourges our unckle by the fathers side, the Duke of Burgundy our cousen, and the Duke of Bourbon our unckle by the mothers side, did preside for us, that the Popes exactions and other grievances formerly rehearsed, might be utterly abolished.

Constitutio *Caroli* 6 quam alii
arrestum Curie
Parliamenti
appellant.
Extat in libello
de statu Ecclesie
Gallic. in schis-
mate p. 4.
Et inter Regias
Constitutiones.
Et in Catalogo
testium verita-
tis. p. 472.

Kings of Eng-
land Preſi-
dents.

Jean le Maire
en la 2. partie
des ſchiſmes.
Matth. Weſt-
monaſt. l. 2. ſub
ann. 1073.
† Wincheſter.
Florentius Wi-
gornienſis ſub
ann. 1070.
Matth. Weſt.
l. 2. ſub. ann.
1107.
Wilhelm. Mal-
meſb. de geſtis
pontif. Anglor.
p. 129. 6

Demetrius Co-
matenus Ar-
chiepiſc. Bulga-
ria in reſponſ.
ad Conſtanti-
niam Archi-
epiſcopum
Dirrachi.
To. 1. Juris
Græco-romani
p. 1317.

10 King *Lewes* the eleventh cauſed a Councell Of the Gallicane Church, and all the Vniuerſites to bee aſſembled in the Citie of Orleans, to bee more fully informed in the buſneſſe of the Pragmatique Sanction: as which Peter Duke of Bourbon Lord of Beavieu preſided in ſteed of the King.

11 There are Preſidents in ſtore for England too. William the firſt preſided in a Councell holden at Roan, in the yeer 1073. It was judged (ſaith an Engliſh authour) at a Councell holden in that Citie, where William King of England was Preſident, that the Monkes which were guilty of the cryme, ſhould bee kept in cloſe priſon during the Biſhops pleaſure. The ſame King preſided alſo at another holden before that at † Silcheſter in the yeere 1070, whereof we have ſpoken elſewhere. In the year 1102, or (as others have it) 1070, Anſelm Archbiſhop of Canterbury, called a Generall Councell of the Churches of England to London, and preſided at it (but it was with the conſent and good will of Henry the firſt) where ſome Eccleſiaſticall affaires of great importance were treated of.

12 Wee could alſo produce ſome examples for Spaine: for hee that ſhall read the Councils holden in that Countrey, will eaſily acknowledge that the Kings had all the authoritie in them whenſoever they were pleaſed to uſe it.

13 All the diſcourſe which wee have made upon this point, is in a manner ſuperfluous; for having proved by ſo many examples, that Kings and Princes called Councils, it follows that they had alſo authority to preſide in them: which yet they did not alwayes uſe, being for the moſt part more apt to wield the ſword than to manage an Eccleſiaſticall action, to give their opinions or cauſe others to opine in ſpiritual matters, to pronounce the ſentence of judgement, and ſuch like. For this reaſon oftentimes they left all to the Clergy without intermeddling themſelves: but when they were pleaſed to interpoſe, they were ſo farre from being cenſured for taking too much upon them, that on the contrary they were highly extoll'd and commended for it. And what was ſpoken to the Emperour by an Archbiſhop of Bulgaria is applyable to all Princes within their owne Realmes and Dominions; The Emperour, (ſaith hee) as the common-ſkilfull Monarch of the Churches, is Preſident of the Decrees of Councils, and makes them bee in force; he ordaineth Eccleſiaſticall orders; hee ſets lawes to the life and policy of thoſe that ſerve at the Altar, &c.

CHAP. XIV.

Of the approbation and authorisation of Councils.



IT remains now that we speak of the authorising of Councils, which the Popes in their books arrogate unto themselves, exclusively to all others; which is also confirm'd by this Council of *Trent*: The words of the Decree, as they are in the *French* translation by *Gentian Hervet*, Canon of *Rhemes*, are very remarkable; *It pleased all the fathers to make an end of this holy Councell, and that his Holynesse should be desired to confirme it, saving only three who said the confirmation needed not be required. Wherefore wee the Legats and Presidents conclude this holy Councell, and desire the confirmation of it from our holy father, in as earnest manner as is possible.* That which is spoken here of those *three* is razed out of all the *Latine* copies which were printed since. It is a losse that the names of those honest men who were of that sound judgement, are not knowne.

2 See here a Decree which doth not a little enhance the power of *Rome*. The Popes heretofore cryed most stoutly, that it belong'd to them to authorize and confirme Councils: yet for all that no body beleev'd them. This Councell states the question, and will not have any to make a scruple of it hereafter. So that if the pope thinke good, it is a thing done to his hand, there needs no more talking of it. As for the Emperour and Kings and Princes, and all other persons whatsoever, no matter for them: they have no more to do but receive what shall be sent them, to execute what shall bee enjoyn'd them, without making any bones of it, referring themselves in all things wholly to another mans trust.

3 And the worst of all is, that by assembling this power of confirmation, the Pope pretends to bee above the Councell. For amongst other arguments which the *Romish* Doctours use to prove the Popes power to be above the Councils, this is one, that hee conformes and rejects the determinations of Councils. To repell this errour wee shall prove three things. 1 That in the approving of Councils the Popes have no more authority than other men. 2 That the approbation of them made by them in times past, hath not wonne them any supreme authoritie over Councils. 3 That for point of approbation Emperours and Kings had anciently more power than they.

4 For prooffe of the first, wee say that anciently after the celebration of Councils, the Synodical fathers, as also the Emperours were wont to give notice unto those that were absent, and to the Provinces, of such things as had bin determined in them, to the end that they might conforme and give their consent unto them; yet so as there can bee nothing observed which makes for the See of *Rome* in particular. This course the Councell of *Nice* useth towards the Church of *Alexandria*, and the Bishops of *Egypt*, *Lybia*, and *Pentapolis*, as is apparent from that Epistle in *Theodore*. *Victorius* testifies that the *Nicene* Creed was sent over all the world, almost approved of all. The first Councell of *Ephesus* writ in generall to all the Provinces, and sent their Canons and Decrees unto them: The Acts of the Councell it selfe doe witnesse it, where in the letters directed to them upon that occasion are inserted. The Council

Confirmation
of Councils
ascribed to the
Pope.

Beilam to 1.
controversy. 4.
lib. 2. c. 17. arg.
5.

Theod l. 1. c. 9.
Marius Victor.
l. 2. contr. *Arr.*

Councils approved by Councils.

Theod. l. 2. c. 8.
Et fragment.
D Hilarii.
Theodoret.

a In proemio.
Conc. Gangren-
fis to. 1. Conc.
p. 607.
b In gestis Conc.
Aquil. circa
princip. tom. 1.
Conc. p. 717.
c In gestis Conc.
Valentini to. 2.
Conc.
d In gestis Con-
ciliis Carthag. 3. to. 1.
Conc.
e Epist. 4. Syri-
cii Papæ et
rescript. episc.
Synod. Tellenf.
quæ extant in
Act. ejusdem.
Synod. to. 1. Con-
c. p. 745.
f Theod. l. 2. c. 22
Conc. Arelaten-
sis to. 1. Conc.
p. 606.
Prosper in Chro-
n. ann. 420.

Marius Victor.
l. 2. aduersus
Arrian.
Conc. Carthag.
3. l. 1. Conc.
p. 749.
In princip. Con-
stant. 2. l. 2.
Concil. p. 669.
In princip.
Conc. 1. Toleta-
ni to. 1. Conc.
Athanas. apol. 2
In princip.
Conc. Rom. 1. to.
1. Conc. p. 543.
Conc. Rom. 3. in
princip. to. 2.
Conc. 412.

of Sardis did the like to the Bishops of the whole Church Catholique, whose letters to that effect wee may read at this day. The Emperours kept that authority to themselves, principally of sending abroad what had beene determined in those Oecumenicall Councils, to the intent that every man might become conformable thereunto. The letters of Constantine the Great, directed to all the Provinces of his Empire to that effect, doe fully testifie as much. And in stead of doing it by their owne authority, the Popes will needs say they did it only as executers of their and the Councils Decrees: wherein they have grossely abused those that have been too credulous towards them.

3 Provinciall Councils tooke the same course of proceeding, and gave notice one to another of their determinations, and of the Canons and Decrees which they made, to the intent that they might mutually conforme one to another. So the Council of Gangra in Cappadocia did to the Bishops of Armenia; So that of Aquileia to the Bishops of the Provinces of Arles and Narbon: So that of Valentia to the rest of the Bishops of Gaul, and the Clergy and people of Friuli: So the third of Carthage to the Bishops of Numidia, Mauritania, and Tripoly. Pope Syriclus after he had held a Council at Rome of eighty Bishops, tooke the very same course, in acquainting the Bishops of Africa, with the resolutions of it, as also another Council holden at the same time at Telenfe, formerly a citie of Italy. Pope Damasus with other Bishops Synodically assembled at Rome acquaint the Bishops of Illyrium with the resolution they had taken for rejection of the Council of Ariminum.

6 On th' other side, the Council of Arles holden under Constantine the Great doth the like to Pope Sylvester. But to the end that such as ascribe unto him authority over Councils, may not wrest it to their advantage: I will set down the very words as they are recorded at the beginning of the Council, To their holy brother Sylvester, Marinus, or the assembly of Bishops that was in the Citie of Arles, greeting. We signifie unto you of our charity, what we by common counsell have decreed, to the end that all men may know what they ought to observe for the future. There is an ancient Chronieler that relates how when there was a Council holden at Carthage of two hundred and sixteen Bishops, the Synodicall Decrees thereof were brought to Pope Zozimus, where being approved, the Pelagian heresie was condemned all the world over. The Pope hath not yet gained any thing by all this. There is nothing for him in particular; but here's it which is presupposed, namely that the authorising of the Canons and Decrees belongs unto him alone, exclusively to all others. Let us evidence the contrary.

7 Victorinus testifies, that when the determination of the Council of Nice was sent every where, it was approved of by an infinite number of Bishops. The Council of Nice was approved by the third of Carthage, in the Acts whereof it is said That the confession of faith made by the Council of Nice, was rehearsed and confirmed. The same was done at the second of Constantinople, Afterwards they confirmed the Council of Nice: So the Acts. The first of Toledo used the like confirmation; as did also the sixth of Carthage; as appears by the first and seventh chapters of it. Athanasius speaking of the Council of Sardis, saith, These things being set downe in writing, the holy Council of Sardis sent them unto those which could not bee there present, who by their suffrages also approved the Decrees of the Synod. It is good reason the Pope should contribute his authority aswell as others, and that he bee not in a worse state than others. Pope Sylvester the first in his Synod at Rome, confirmed and approved all that was decreed at the Council of Nice. Pope Hilary used the like approbation in another Council holden under him at Rome. Yea further, he approved the holy Scriptures and commandements contained in

in them. Nay which is more, all the Popes were wont at that time presently upon their creation to publish a profession of their faith, and say their Creed according to a certain forme composed for them, a peice whereof we yet read in *Gratians Decree*, wherein they approved the eight Generall Councils, and promised to keep and observe them. There were other articles in that forme, as the addition made by the authority of *Gregory* the thirteenth, doth shew. And it is probable they spoke of the Scriptures contained in the Old and New Testament: yet will wee not affirme though, that they tooke their authority from that approbation. We shall observe by the way, as a privilege of our Kings, that the Popes, presently after their preferment to the Popedom, were anciently accustom'd to send that profession of their faith unto them: and it is to bee had to this day amongst the records of the Kings Treasurer under the name *Benedictus*, as some of our French authours doe affirme.

Councils confirmed by Emperours.

Can. Sancta, Dist. 16.

V. Parrie, 2. des libertés de l'eglise Gallic.

8 From all these passages we conclude, that the confirmation of the Canons and Decrees of Councils, which the Pope pretends to belong to him, is of no more force and energy than that of other Bishops; unless they will plead this reason, that the Pope had power to reject them, and that those which he rejected were accounted for illegitimate. So *Damasus* reprobated the Council of *Ariminum*, and gave the Bishops of *Illyrium* notice of that his rejection, to which they conformed themselves: but here it must be observed, that this reprobation was made by the Council of *Rome*, and not by the Pope alone: and that the Council of *Ariminum* was generally condemned by all, forasmuch as it confirmed *Arrianisme*.

Theod. 1. 2. c. 11.

9 I shall willingly grant that the Pope, upon good grounds, might disallow a Council, and reject it of himselfe alone; but it must bee granted unto me likewise that it was lawfull for others to doe the like. The Council of *Tyre* having unjustly condemned *Athanasius*, the Emperour *Constantine* writ some sharpe letters to them, and commanded the Bishops of that Council (who were then removed to *Ierusalem*) to come to *Constantinople*, to render a reason of their fact, and to justify their sentence. Saint *Hilary* rejected the Council of *Milan*, and writ against it. *Athanasius* writes of the Emperour *Constantius* that hee served himselfe with the colour of a Council to condemne him, but that in very deed it was himselfe that gave the judgement against him. He condemnes such a Council as unlawfull and unjust. This very reason doe we urge against the Council of *Trent*. Wee say it was but a Pope drest up in mummerie, and which carried the name of a Council: that he hath taken too much power upon him in making the validity of Councils to depend meerly upon his authority. Nay we say yet further, that Emperours and Kings have farre more authoritie than he in the confirmation and approbation of Councils, which we shall make evident by some examples.

Sozomen. 1. 2. c. 27.

10 *Eusebius* in the life of *Constantine* witnesseth that hee confirmed the Council of *Nice*. The Bishops of the second Generall Council write to the Emperour *Theodosius* on this wise: Wee desire your clemency that you by your letters would confirme the Decrees of the Council, and command that it bee ratified and established. In the first Action of that of *Chalcedon* it is said, The Emperour *Theodosius* confirmed all that was decreed by the holy and Generall Council. And in the third Action the Emperour *Martian* said, We confirme the reverend Synod by the sacred Edict of our serenity. Pope *Leo* acknowledged that this kind of approbation belonged to the Emperour; for being displeased with the second Council of *Ephesus*, to take order that it might not bee approved by the Emperour *Theodosius*, he and all his Synod of *Rome* writ to him about it. Both I and all the rest of the Bishops my Colleagues do beseech you (most Christian & venerable Emperour) to command that all things remaine in the same state they

Extat hac Epist. in libello synodal. Constit.

V. Conc. Chalced. Act. 1. & 3. 10. 2. Conc.

Epist. 23. ad Theodosium Imperat.

Councils confirmed by Emperours.

Idem in eadem epist. ubi de eadem Synod. Ephes. 2. Vi. etiam epist. 24. ad Pulcher. Augustam. Leo Epist. 58.

Sozom. l. 4. c. 16.

Relatio Synodi Ephesine que extat to. 1. Conc.

Theod. l. 5. c. 8.

Act. 3. Concil. Chalced. to. 1. Concil.

Conc. Aurelian. 1. to. 2. Conc. pag. 510.

Conc. Arelat. 4. To. 3. Concil. p. 679.

Concil. Turon. 3. To. 3. Conc. pag. 682.

were in before the holding of the Council, and the judgement there passed to bee suspended, till such time as a great number of Clergymen may be assembled from all parts of the world. And in another place, *All the Clergie entreat you with sighes and teares, that, considering those who were sent thither by us did faithfully oppose themselves against it, and that Bishop Flavianus put in his appeale from it, you would command a Generall Council to bee kept in Italy.* The same Leo writ to the rest of the Bishops in commendation of the Council of Chalcedon, to the end that they should receive it as legitimate; but it was, as hee himselfe confesseth, by command from the Emperour *Martian*.

11 The Emperour *Constantius* prescribed the forme which they should goe by, and the points which they should treat upon, to the Councils of *Ariminum* and *Seleucia*, and commanded them by his letters, *That so soone as they had passed sentence commanded them that ten of each Council should come to the Court to informe him of their proceedings.* Wherein hee was obeyed by them. *Theodosius* and *Valentinian* commanded the Oecumenicall Council of *Ephesus* to send some of the Bishops unto them to acquaint them with the causes and motives of their deliberations, which was done accordingly, as appears by the letters of the Council to those Emperours. *Your piety being moved by our prayers (say those good Fathers) hath commanded that this Generall Council should send unto you some of the Bishops and Religious, to lay open all the causes and motives in your presence: whereupon, after thanks to God, we have chosen out Arcadius, Iuvenal, Flavian, Firmus, Theodotus, and Acacius Bishops, Euoptius and Philippicus Priests and delegates for Celestine Bishop of the See Apostolique of great Rome, whom we commend unto your sanctity, desiring you to heare them graciously.*

12 After the second Council of *Nice*, called the seventh Generall, was ended, *Those who had beene at the celebration of it (saith Zonaras in the third Tome of his Annales) repairing to the Citie of Constantinople, they rehearsed the Acts of the Council in the Imperiall Palace, the Emperours presiding there in the face of the whole world, which were approved and subscribed by the same Emperours.* We reade also that the Emperours did publish and promulgate the Canons and Decrees of Councils: that they sent out proclamations concerning them: that they dispersed them through the provinces to cause them to be observed, with commination of penalties: yea they directed them to the Popes themselves. There are two severall Edicts of the Emperours *Valentinian* and *Martian* extant in the third Act of the Council of *Chalcedon*, whereby that Council is confirmed.

13 We have some pregnant examples in our Realme of *France* in case of such confirmations, such were constantly reserved to our Princes by the Councils there kept. The first of *Orleans* addresse their Decrees to King *Clovis*, with this recommendation, 'If the things which wee have ordained be approved and found good by your judgement, the resolution of so many reverend Bishops as are here, is, that the authoritie and consent of so great a King as you are be preserved. The fourth of *Arles* holden under *Charles* the great, breakes off with this conclusion: 'We have briefly touched what we thought worthy of reformation, with a purpose of presenting unto the Emperour what we have done about it; desiring his clemency that if ought bee found defective it may be supplied by his wisdom; and what shall be amisse may be amended by his judgement, and what shall bee found to be well done may be confirmed and perfected by his assistance.

14 The third of *Tours*, holden under the same Emperour in the same yeare makes this preface: 'We have distinctly divided into chapters certaine points which we thought pertinent to so great a worke, and to stand in need of reformation; following therein the canonicall order, that we might shew them

to our most renowned Emperour. The second of *Cavaillon* holden under the same Emperour, saith in the preface, 'We have observed certaine points and chapters to be presented to the Emperour himselfe, and referred to his most sacred judgement; to the intent that by his prudent examination those things may be confirmed, which we with good reason have determined. The first of *Mentz* saith to the same Emperour, 'That your Imperiall dignity would command such things to bee corrected as stand in need of correction. And they had said before, 'That the chapters by us collected may bee confirmed by your authority. The second of *Mentz*, holden in the yeare eight hundred thirtie foure, concludes with these words directed to *Lewes* the Gentle, 'We desire that these resolutions which are sent unto you, may be confirmed by your authoritie. An ancient Historian gives this testimony of the third of *Mentz*, holden under the same Prince, 'They treated of Ecclesiasticall questions (saith he, speaking of the Bishops of that Councell) but the King being imployed in publique affaires, and composing differences among the Princes and Governours of Provinces, returned to *Bavaria*, after hee had approved the Synodicall acts, which were referred to his judgement.

15 In all this it is to be observed, that in none of these Councils was it ever consulted about requiring of the Popes approbation, nor his consent in any thing whatsoever; which is much different from the manner of proceeding in that Councell which we reject. Onely wee read that a certaine Bishop of *Rhemes* sent the acts of a Synod holden at *Soissons* to bee confirmed by Pope *Bennet*, who succeeded *Leo*. But withall that he did not doe it by any decree of the Councell: and this example is not so much worth against so many to the contrarie. And it is so farre from truth, that the Popes confirmation was ever required to the Ecclesiasticall lawes of *France*, that on the contrary the Popes themselves have received them, as we prove elsewhere. The Councell of *Aix* holden in the yeare 837, intreat King *Pepin* To take their act in good part. There are divers others which doe the like.

16 There are some also extant whose decrees are conceived in the name of our Kings, whom the Councils bring in speaking, that they may bee of more force: which denotes the great authority of our Kings over Councils. Such are the decrees of the Councell of *Soissons*, holden under *Pepin* in the yeare 744. Such those of *Francfort* under *Charles* the Great, about the condemnation of images, and the *Felician* heresie. Such are those of the Synod of *Pistis* upon the *Seyne*, holden by *Charles* the Bald. Such the *Fragmatique* Sanction of *Charles* the seventh, which is nothing else but the Decrees and Determinations of the Councell of *Bourges*, and divers others.

Emperours and Kings confirme Councils.

Conc Cabilonens. in prin. To. 3. Conc pa. 636.

Concil. Mogunt. 1 To. 3. Conc. in prefat p. 694. Synod Mogunt. 2. in fin. To. 3. Concil. p. 838.

Annales incerti author. apud scriptores coetaneos Pithet.

Histoire de Rheims l. 3. c. 9.

Conc. Aquisgr. in fine to. 3. concil. p. 864.



A
R E V I E W
OF THE COUNCELL
OF T R E N T.

B O O K E I V.

C H A P. I.

*That the Councell of Trent advanceth the Popes authority
 above the authORITY of Councils.*



It is not said in expresse termes by the Decrees of the Councell of *Trent*, That the Pope is above a Councel; yet it is such an easie matter to see that this was the intention of those fathers, that there is no reason to make any scruple of it. So they which now adayes plead the Popes cause, build their maine arguments upon it; to whom by the way wee shall take leave to make some resistance, in defence of the *Gallicane Church*, and indeed of the liberty of all Christians. See here's then the meanes whereby the Pope is an-

thorized by them to bee above a Councell.

2 First of all, inasmuch as the Bishops there present suffer'd and approv'd the Pope to use absolute prohibitions against them, and that with commination of punishments and penalties; and that of his own authoritie he commanded his Legats to remove the Councell, without ever making any mention in his Bulls of asking their advice, but rather of making them in case they should

Trent Council
gives Popes au-
thority above
Councils.

refuse so to doe. Wee have already transcribed in the chapter of the convo-
cation of Councils, that passage wherein these things are contained.

3 In next place, Because the authoritie of the Pope is by this Council in
all things reserved: which is as much as to say, is preferr'd above the Decrees
of the Council, so as hee may change and alter them at his pleasure. In the
second Decree of the sixth Session, it is said, *The same holy Council, the same
Legats there presiding, intending to prosecute the businesse in hand touching re-
formation and residence, hath resolved that it be ordained as followeth, saving
alwayes in all things the authority of the holy See Apostolique.* And in the 21
chapter of the last Session; *Finally the holie Council declares, that in all and
every thing which hath been ordained in this holy Council touching reformation
of manners, and Ecclesiasticall discipline, under what clauses and words soever
expressed, as well under Pope Paul the third, and Julius the third, as under the most
blessed Pius the fourth, they were so ordained and decreed, as that the authority
of the holy See Apostolique is and must alwayes bee understood to be reser-
ved.*

Seff. ult. c. 5.

4 In the third place, Because they give unto him power to declare, inter-
pret, and resolve all doubts, and difficulties, which shall arise about the
Canons and Decrees of the Council in such manner as hee shall thinke
good.

Seff. ult. c. ult.

5 Fourthly, Because in the conclusion of the Council they desire a con-
firmation from the Pope of all and every such things as were there by them or-
dained and determined.

Seff. ult. c. 2.

6 Fifthly, Because they decreed that Provincial Councils shall promise and
make protestation of true obedience to the Pope.

7 Sixthly, Because the Pope, during the time of the Council, did and
exercised what of right belonged to the Council, and not to him: as the crea-
tion of Cardinals, the according of Princes, and other things of like na-
ture.

8 Seventhly, Because the Pope tooke authority upon him in the very
Council: As when the question was about the controversie betwixt the
Kings of *France* and *Spaine*.

9 Eighthly, Because they permitted, yea approved the ordinance of *Pius*
the fourth: That if the Pope chance to die during the time of the Council, the
election of another belongs to the Cardinals.

10 Ninthly, Because it confirm'd all Papall constitutions in generall; and
consequently that of *Leo* the tenth, wherein he disalloweth the Pragmatique
Sanction, and declares the Pope to bee above a Council.

11 Tenthly. Because they suffered, that the Popes which reigned during
the time that they were assembled together in Council, inserted in the fa-
culties of their Legats; namely the power of derogating from General Coun-
cels.

12 And lastly, Because they treated and resolved upon nothing in that Coun-
cell, till such time as they had sent to seeke the the holy Ghost at *Rome*, and
had consulted the Popes oracle, as wee said already in another place. Hence
then we with good consequence conclude, that they gave the Popes authori-
ty over Councils: which was never done before, save onely in the *Lateran*
Conventicle: and it will never appear that the former Councils gave any such
advantages to the Popes in any of these cases here specified.

13 For the first, it was never heard of before, that Popes tooke upon them
to mulct Councils: to command them in an imperious way. *Eugenius* the
fourth commanded indeed the translation of the Council of *Basil*, but in mil-
der termes, and yet he was not obeyed in it. This was one of the questions
discuss'd and resolv'd at the Council of *Basil*, *That the Pope of his owne au-
thority*

thority cannot dissolve, nor transferre, nor protract a Generall Councell lawfully assembled, without its consent. This very resolution was received and approved in France by the confirmation of the Councell of *Basil*, made at the Synod of *Bourges*; as may bee seene in the Pragmatique Sanction of King *Charles* the seventh, wherein that Decree is inserted word for word. If we looke up to the ancient times, it is certaine that the translation, prorogation, and dissolution of Councells belonged to the same to whom the Convocation: Now the Convocation (as we have shewed) was made by Emperours and Princes; therefore it belonged to them also to translate them when they thought fit, without any injunction from any man in this matter.

Popes have no right to transfer Councells.

14 It will bee said perhaps that the translation of this Councell from *Trent* to *Bonony*, by virtue of the Popes Bull, was avowed by the Councell. It is true; but here we must take notice of two things: First, that when the Pope commanded that removall, hee did not put into it any saving or reservation of the good will of the Councell, which ought to have been done according to the Councell of *Basil*. The second, that the Bishops indeed which were there did deliberate upon this translation, but it was to conforme themselves to the Popes command: for say they, *The Authority also of the holy See Apostolique*, Sessio 9. unto the said most reverend Presidents in more speciall manner granted intervening. They were very fearfull of doing otherwise, and swarving the least jot from his pleasure, considering those comminations whereof we have spoken already. Nay besides all this, in bringing of it back againe from *Bonony* to *Trent* by the only authority of *Julius* the third, there was not any deliberation at all about it in the Councell; howbeit that Bull containes some as peremptory clauses as the former; as for example this which follows; *Decreeing notwithstanding that if ought bee attempted to the contrary hereof by any person whatsoever, by any authority whatsoever, it to bee void and of no effect. Let it not therefore be lawfull for any man to infringe, or in a temerarious boldnesse to oppose this Chart of these our present exhortation, desire, admonition, ordinance, declaration, innovation, will and decrees.* By virtue of this Bull those Reverend fathers returned from *Bonony* to *Trent*, without ever finding fault with that clause which aimed directly at them: yea without ever giving their voices, or consulting about this second translation; but only about the resumption and continuation of the Councell after they were returned to *Trent*: adde hereto that the Pope saith in that Bull, that hee decrees this translation of his full power, and with the advice of the Cardinals, making no mention at all of the Fathers of the Councell in this respect.

Julius the third's Bull put at the end of the tenth Session.

15 Shall wee now say this was a free Councell, and that it had authority over the Pope, being so rudely curb'd and check'd by him, and that in such harsh termes? All which (as this is it betrays the naked truth of their intention) are registred in the Acts of the Councell. Now all these forementioned clauses deserve to bee paralleld with those in the Bull of *Engenius* the fourth, whereby he decreed the translation of the Councell of *Basil*, and which raised such a deal of tragedies, to the confusion of that great Pope, to see if there bee any thing in it, wherewith those fathers of *Basil* might be more justly offended than ours of *Trent* were. That Pope had ordained that the Councell should bee transferr'd from *Basil* to *Bonony*, and afterwards that it should continue at *Basil*, with all respect and reverence unto it, and without any haughty speeches; as appears by his Bull of the yeare one thousand foure hundred thirtie one, which is extant in the Acts of that Councell, Session the first. Notwithstanding that translation, and without any regard of it the Councell held on at *Basil*: yea and medled with businesse without waiting for the arrivall of the Popes Legat. And (to the intent the Pope might have no stomach to transferre, or dissolve the Councell at his pleasure) it confirmed the Decree of the

*Eugenius paral-
leld with
Trent-Popes.*

the Council of *Constance*, wherein it is said in downright termes, *That a Council is above the Pope*; and this was done in the second Session. The next year after when the Council had notice of the Popes intention, which was to dissolve the Council by meanes of this translation, they sent to intreat him that he would not doe it, and at the very same time fix'd upon this resolution, not to suffer it: this was consulted upon the same yeare, one thousand foure hundred thirty two, as the Acts relate it in the fourth Session. Vpon this reason *Eugenius* by his Bull dated in August, one thousand foure hundred thirtie three, after he hath told how he translated the Council from *Basil* to *Bonony*, and how he afterwards ordain'd that it should be continued in the same Citie of *Basil* under the Presidence of his Legat, and also of the disrespect of that Council towards him, who had held their Session without his Legat, and in contempt of the translation; hereupon he sent out a Bull, which is not in any thing more presumptuous than those of *Julius* the third, and *Pius* the fourth, about the translation of the Council of *Trent*. We will here set downe the very words, that so the comparison may bee more easie.

16 *Of our full power Apostolicall we abrogate and annul, and decree that whatsoever hath been enacted, declared and ordain'd by the Council of Basil against our Lawes and liberties, and of the See Apostolique, be invalid and of no effect. Forbidding all Christians to obey or give eare to such decrees, ordinances, commandements and proceedings: declaring that no man is tyed by any bond of oath, promise, or compact made with them, of what estate, degree, or eminence soever he bee: and whether he bee of dignitie Imperiall, Royall, Cardinall, or whatsoever else Ecclesiasticall or Civill. Let it not then be lawfull for any person to infringe, or in a temerarious boldnesse to oppose this our declaration, ordinance, will, command, cassation, abrogation, and prohibition.*

17 Let us now examine all these clauses. I. First of all hee declares that he proceeds therein with full power *Apostolique*. *Paul* the third saith in his Bull dated in March 1544, *Out of our owne proper motian and full power Apostolique*. II. Secondly, he casseth and declareth, that what was done by the Council of *Basil* in prejudice of his authority, is a nullity. Pope *Julius* the third, in his Bull of the 15 of December, saith, *Wee decree notwithstanding that if any person whatsoever by any authoritiy whatsoever, doe attempt any thing to the contrary, it shall bee void and of no effect*. III. Hee forbids all persons to oppose his Bull out of temerarious boldnesse. Hear *Julius* in his upon that point, *Let it not therefore be lawfull for any man in the world to infringe this present Chart, or out of a temerarious boldnesse to oppose it*. And here is all that can be said out of Pope *Eugenius* his Bull to the Council of *Basil*. But this is not all of Pope *Pauls* to the Council of *Trent*. For behold hee hath yet more, inasmuch as he commands his Legats, *To remove the Council of Trent to what other place they please; to suppress and dissolve it in the said Citie of Trent: and to forbid the Prelats and other persons of that Council to proceed any further at the said Trent, upon paine of Ecclesiasticall censures and punishments*. This might well have sufficed, but to make up the upshot, see yet more: *To summon the said Prelats and other persons of that Council unto that City whither it shall be adjourned, upon paine of perjury, and other punishments expressed in the letters of Convocation*. This clause is so newfangle, that the Popes never used it to any Council before. Yet neverthelesse poore *Eugenius* because he conceived such an enterprize was declared an heretique by the Council of *Basil*, and deposed from his Popedome. Whereas these on the contrary have wonne the day, and triumphed over the Council, over Emperours, and Princes, yea indeed over all Christendome. These denouncings of punishments are formally against the Decrees of the Councils of *Constance*, *Basil*, and *Pisa*, whereby it is said, *That the Pope hath no power to transerre a Council without its approbation*.

bation. Which notwithstanding the foresaid Popes did by their Bulls above-mentioned.

18 It is said in another decree of the Councell of *Basil*, That the Pope hath no presidence either coercitive or authoritative above a Councel, as they phrase it, that is, none which gives him any authoritie over it. Which Decree was made with great and mature deliberation, after they had spent a long time in the search of books and some Canons, and had imployed the most learned men about it.

19 The Cardinals that called the second Councell of *Pisa* made a complaint to the other Cardinals that were neare to *Julius* the second, because they had consented that they should be summoned with Ecclesiasticall censures to another place to keepe the Councell. Wee were highly displeased that you should yeeld your consent, or give your advice (if that be so) to such grievous admonitions and censures as are said to be pronounced against us, and that namely summoning us by censures to a place which is notoriously suspected to us. Yet nothing was done for all this, for they let the Pope hold his Councell of *Lateran* at *Rome*, while they celebrated their other at *Pisa*.

20 The Councell of *Basil* used another manner of language to *Eugenius* the fourth. Let us heare what *Platina* saith of it. Then the Pope being distracted with a doubtfull care because he was pressed with warres on every side, and saw the Councell of *Basil*, which was formerly begunne by Pope *Martins* Decree, to increase every day, the Kings of *Spaine*, *France*, *Germany*, and *Poland* flocking thither, as referring the common cause of the Christian Commonwealth to the Councels arbitrement, resolving with himselfe to breake off the Councell, he transferred it first from *Basil* to *Bonony* with the consent of all the Cardinals that were with him. But the Emperour and the rest of the Princes and Prelates then at *Basil* did not onely disobey him, but admonished him two or three times to come with the Cardinals to *Basil*, the proper place for the holding of the Councell, and which had beene pitched upon by Pope *Martin*, otherwise they would proceed against him as a prevaricator and contumacious person. *Eugenius* being moved with these words, confirmed the Councell of *Basil* by his Apostolicall letters, giving every one leave to goe thither. But all this which hee relates doth appeare yet more plainly by the reading of the Acts of that Councell, to which I refer the Reader.

21 As for the Popes authority, which is alwayes reserved in all the Decrees of this Councell, it is as extraordinary a clause as can bee imagined. I confesse there was alwaies a great deale of honour given to this See of *Rome* in consideration it was the chiefe Citie of the Empire: but to make such a reservation of his authoritie was a thing unusuall and unknowne.

22 When the question was about condemning the *Felician* heresie, because the author of it had beene formerly sent to *Adrian* the first, and convicted in his presence, therefore the Councell of *Francford* being to excommunicate the Bishops of *Spaine*, did him so much honour as to make an expresse reservation of Pope *Adrians* priviledge. Which is no generall priviledge comprehending any authoritie over Councels: but onely a prerogative in that point which concerned the Bishops condemnation, to the intent that the processe might be revised by his authoritie, according to the Decree of the Councell of *Sardis*. So likewise the first Councell of *Ephesus* did Pope *Celestine* the honour to referre *John* Bishop of *Antioch* his cause to his judgement, and that for the reason which we elswhere relate. But all this was done out of a prerogative of honour, not out of any acknowledgement of the Popes superiority over a Councell: for it can never bee found that other Councels reserved the Popes authoritie over their Decrees.

23 Besides, this is a way to bring a tyrannie into the Church, seeing hee

D d

that

Councell of
Basil above the
Popes autho-
v

sess 17. Conc.
Basil.

Vid. Responsio-
nem datam Epi-
scopo Alexand.
Nuncio Collegii
Cardinalium Ro-
mae existentibus
Cardinalibus
Concilium Pi-
sanum indicen-
tibus, apud Acta
Concilii Pisa-
ni 2.

Platina in Eu-
genio 4.

Aimoniustib. 9.

Trent Councel
subject
themselves to
the Pope un-
justly.

that should have such an unlimited power not subject to any controll or re-
proofe, might alter and change all things concerning manners and Ecclesi-
asticall discipline, might lead all the world in a string, and have them under
his lash; might hooke into his owne hands the election, deposition, and judge-
ment of all Clergymen: in a word, this is put all in his hands. There was no
need of staying such a while at *Trent* to make up so many Decrees, if they must
afterwards send them to the Pope to cancell. For it is well knowne hee dis-
penseth with them sufficiently himselfe, so as there is no necessitie of enlarging
his power any further. They might have done better to have referred all to
his discretion at first, to clip and stitch them up at his pleasure. The expences
of so many armies might have been spared. But see here a thing worth your ob-
servation: All the Princes and people of Christendome grone after a reformati-
on of the Church: cry out that it must begin at the head, & from thence descend
to the members: The instructions given to the Ambassadors of the Emperor,
the King of *France*, and all *Germany* are charged with it. Pope *Adrian* con-
fesseth it by his Legat in the Diet of *Noremberg*. And yet for all this in stead of
a pastorall staffe which hee had before, they give him a club, a two-edged
sword. In stead of reforming the abuses, they foment them: in stead of extir-
pating them, they increase them. Let us now prosecute the other points.

Council. Constan-
tien, Sess. 39.

24 The Councell referres the exposition and declaration of such doubts and
controversies as may arise about it solely and wholly to the Pope. Whereup-
on we reply, that if they bee pettie doubts they should as well bee resolv'd by
other Bishops as by him, seeing they are all expositours of Gods law, which
hath at least as much authoritie as the Councell of *Trent*. And therefore by
consequent the Councell of *Trent* derogates from their authoritie, in ascribing
that to the Pope alone which belongs unto them all. But if there bee some
great controversie in question, the definition of it belongs to a Councell. These
Fathers knew it well enough, when they said that the Pope might provide
for it by holding of a Councell: but the sting and venome is in the taile, or by
any other way as shall seeme to him to be most convenient. The Councils of *Con-
stance* and *Basil* did not use the matter so, but piously ordain'd that from thence
forwards Generall Councils should bee holden from ten yeares to ten yeares. In
which they were approv'd by the Pragmaticque Sanction of *Bourges*. This is
the true meanes of expounding doubts, of weeding out heresies, of tilling the
Lords field, as it is said in those Councils.

25 This keeping of Councils every ten yeares was found so necessary, that
the Pope was forbid to prolong the time, howbeit power was given him up-
on just cause to abridge it. Our *Trent* Fathers were of another opinion: ha-
ving this conceit that the Popes are much enamour'd of Councils, in these
times especially when it is lawfull for them to doe any thing, they have left it
to their discretion to call them when they shall thinke good. What I pray?
give a child a rod to whip himselfe when he list with. They have no lust to
procure them, although by this of *Trent* they are declar'd masters over them,
whereas by others they were but servants to them. They are too apprehen-
sive of the returne of those former times. Let a man but consider the myserie
of that of *Trent*: five and twentie yeares must they pause upon the calling of
it, and spend eightene years in the holding of it. Why all this? if not to chuse
the times and seasons of purpose to dispose persons to their desire, to alter their
minde, to breake off the good designs of such as laboured a reformation, to
imploy them upon businesse, to stirre up troubles, and put all things in commo-
tion, that so they might reigne more powerfully, and bring all things under
their Empire?

Lib. 3. Cap. 14.

26 As for the approbation of it which was demanded at the Popes hands,
we have spoke so fully of it in another place, that there is no need of adding
any

any more to it. We shall only say that those Fathers did meerly befoole themselves in their mysterie, by ordaining that the Pope should confirm that which himselfe had made, either at *Rome* from whence hee sent the Canons and Decrees ready made to their hands; or at *Trent*, where hee presided by his Legats. But this was to make it appeare to every man that all depends upon him alone, and that the rest of the world is but his footstoole.

Provinciall Synods not subjects to the Pope.

27 As for the oath of true obedience to the Pope, to which Provinciall Synods are submitted by this very Councell, wee say likewise that it is an unusuall thing, yea unknowne in former Councils: which were so farre from taking an oath of obedience to the Pope, that on the contrary they opposed him when he out-rayed from his dutie; and made him know that every one of the Bishops, of whom they consisted, was as good a man as he, saving his Patriarchall dignitie, which is common to him with others of the same Order. Heare what the Bishops of the Synod of *Metz* say to Pope *Nicholas* who had excommunicated them. *We see thine anger and thy swelling power. We doe not yeeld an inch either to thee or to thy pride; and wee will make thee know wee are none of thy Clerkes, as thou boastest thy selfe, and art proud of it; seeing that if thy passion would suffer thee, thou should acknowledge us for thy brethren and fellow Bishops.* But we shall handle all that can bee said to this point in the generall question, *Whether the Pope bee above a Councell.* Wee will onely adde here, that this obedience is of a new stamp: and to be full assured of its noveltie we need but read the Councils holden in former times, where wee shall finde no such thing. That of *Basil* speaks at large of provinciall Synods in the fifteenth Session, and prescribes them a forme which they shall observe, and sets downe what they shall doe. But it hath quite forgot this clause of obedience.

Annales incerti authoris inter scriptores constantinos patet Aventinust. 4. hist. Boierum.

28 It is also a thing notorious, that the Popes proceeded to the creation of a great number of Cardinals during the time of the celebration of the Council. *Onuphrius* testifies that *Pius* the fourth in foure elections which he made created full fortie six before the end of this Councell. Now by that of *Basil* in the fourth Session, the Pope is forbid to create any Cardinals during the time of the Councell. *The holy Councell ordaines by this irrefragable Decree, that during the time of this sacred Councell, the Pope of Rome, absent in person from the place of this Sacred Councell, nor ought nor can preferre any man of what quality soever to the dignity of Cardinall, by any meanes or upon any pretence whatsoever.*

Onuphrius panunus in addit. ad platinam. In pio 4.

29 That which we urge touching the according of Christian Princes is not causlesse: it is one of the functions belonging to Councils to appease the quarrels and controversies amongst them. The Councell of *Basil* saith it was assembled *For the extirpation of errors and heresies: for the reformation of manners in the head and members; and for the pacification of Kings and Kingdomes, and all other Christians.* Now it was evident that during the time of the celebration of this Councell, all Christendome was up in armes: the Popes were observed to make commotions, to kindle warres and sound an alarm, I say not against those that were departed from his obedience, but even against Catholique Princes. *Henry* the second, King of *France*, may serve for instance. And when the Pope pleased agreements were made. All this while our Councell never said a word to it, but like a snail drew in its hornes, and among all these tempests remained close shut up in its shell, not daring shew it selfe in such daintie affaires: letting all things passe as if it had no interest in them: as if it had beene the blood of Barbarians which was shed, and not of the members of Christ. When there arose a controversie in the Councell betwixt the Ambassadors of *France* and *Spaine* about precedencie, our Councell continuing in its accustomed silence, suffered the Pope to interpose in it, and to negotiate the accord, after he had fomented the quarrell. In brieft, wee may fitly say this

Council. Basil. Sess. 2.

Popes elected
by Councils.

Councell was nothing but a white wall upon which the Pope might write what he list: that it moved onely by him; that it was a Pope-Councell, that is, a Councell in name, but a Pope in deed.

Onuphrius Pa-
ninus in Pio 4.
in addition ad
Platinum.

30 As for the authoritie which we say the Pope tooke upon him over the Councell, it appeares in that commandement which came from him for censuring the Ambassadors of the two Kings both at once, which was an occasion of dissention: witnesse Onuphrius, who saith, *There was a great controversie by reason that by command from the Pope the Ambassadors of the two Princes were both censured at once.*

Onuphrius in
Pio 4.

31 But loe here that which outgoes all the rest I namely, that Pius the 4th ordained by a Bull of his, *That if the Pope happened to dye during the time of the celebration of a Councell, the election of a new Pope shall belong to the Cardinals onely, and not to the Councell.* Which Bull (saith the same Onuphrius) was confirmed and approved by all the Fathers of this Councell. Besides, if they had not done so in expresse termes, the generall Decree would have beene sufficient for it, whereby they have authorized all the Popes Canons and Decrees, and besides have in expresse words advanced the Pope above the Councell in all things, and to all effects and purposes. Now the Pope having made this Decree during the time the Councell sate, and the Councell having admitted of it, wee may well conclude that it hath resigned its power to the Pope, and hath advanced him above it selfe.

32 Now that the Election of the Pope belongs to the Councell, is cleare by that of Constance in the fourteenth Session. *The holy Generall Councell of Constance ordaineth that the next election of a Pope of Rome shall bee performed in such manner, forme, place and time as shall bee appointed by the sacred Synod: and that the said Councell may for the future qualifie, receive and depute such persons as it shall thinke good, of what estate and condition soever, to make such election active and passive.* This Decree was after confirmed by the Councell of Basil in the 37 Session. *The holy Synod ordaines that if the See Apostolique happen to be void while this holy Generall Councell sits, the election of the Pope shall be in this place, forbidding it to be done in any other.*

In capit. licet.
De electione,
dispnt. 2.

33 It is true the Councell of Constance gives the Cardinals leave to proceed to the election: but that was alwayes with authoritie from the Councell. So saith the Abbat of Panormo in expresse termes. *To avoid dissention it was obtained of the Councell of Constance that the said Councell should for that time transferre their right upon the Colledge of Cardinals.* The same Councell of Constance speaks thus of it in the fortie fifth Session. *The holy Generall Councell of Constance, in execution of their Ordinance, Decree, and Constitution, touching the forme of electing the Pope of Rome for this turne, to proceed to the said election, hath joyned to the right Reverend Cardinals, with their expresse will and consent, the Reverend Patriarchs of Constantinople, &c, There are thirtie there nominated to proceed to the said election with the Cardinals.* Which was done at that time with their consent, to avoid trouble, by reason of their great power. And that this was the reason doth plainly appeare by that which was done afterwards in the like case at the Councell of Basil, which gave the Cardinals no such power, but made choice of other persons to proceed to the same election without their consent. For see what they say of it in the thirtie seventh Session. *The said Councell doth ordaine and declare that the election of a Pope shall for this turne be executed and performed by this Sacred Councell of Basil, or at least by its authority, according to the forme already set downe.* Now the forme was this: that the Cardinals which are or shall be may assise accidentally at the said election, with two and thirtie other Ecclesiastiques of all Orders, alwaies provided that they be Subdeacons at least: Not by their owne proper authoritie, but by that of the Councell,

Councell, as it is said in these words, *That they have free power to chuse a Pope by the authority of this Councell.* Popes elected
by Councils.

34 Besides, it was not question'd in the Councell there, Whether the power of chusing a Pope belonged to the Councell during the time of its celebration: but onely whether the Councell could depose the Pope, as wee finde it in the Acts of that Councell, collected by *Aeneas Sylvius*, afterwards called Pope *Pius* the second: which teacheth us further, that the consent of the Cardinals was no way necessary, but onely granted to them in a complement. *The Fathers thought it requisite (saith he) to take the election of a Pope into consideration, and the chiefe of them having consulted about the manner of proceeding, it was proposed and at last agreed upon in full assembly, that two and thirty Fathers, who had taken the Orders of Deacon should be selected out of the body of the Councell, who having first taken their oaths, should enter into the Conclave with the Cardinall of Arles to chuse the Pope.* This being thus determined by these two Councils, it is needlesse to urge the authority of Doctors and Divines; as of *James Almain* in his lecture *De potestate Ecclesiastica*: Mr. *John Gerson* Chancelour of the Vniversitie of *Paris*, in his tract *De potestate Ecclesie*, and his other *De subtractione Papa erga Ecclesiam*: and others which hold in terminis, that during the celebration of a Councell it belongs to it, and not to the Cardinals, to proceed to the election of a new Pope, in case the See become void. We shall onely say that this is so, because it is the Councell which gave the Cardinals this power of chusing the Pope; to wit that of *Lyons* and that other of *Vienna*: and therefore if there bee one assembled when the See falls void, it belongs to it onely to proceed to the election, or to depute such as they shall thinke good to doe so. Now the Councell of *Trent* having divers times suffered them to usurp this right of election, it must needs be confest that it had not the force and authoritie of an Oecumenicall Councell.

35 Pope *Leo's* Constitution made at the Councell of *Lateran*, whereby he derogates from the Councell of *Basil* and the Pragmatique Sanction (as concerning the authoritie of a Councell above the Pope) is also notoriously known to every body: whereof we shall speake towards the end of this Treatise.

36 And for the faculties of the Popes Legats to dispense with Councils, this is proved by those granted by *Julius* the third to Cardinall *Saint Martin de Montibus*, in the year 1551. and to Cardinall *Saint George de Vitulo aureo*, the year 1553. by *Paul* the third to Cardinall *Caraffa*, the year 1556. and to Cardinall *Trivulzio*, the year 1558. by *Pius* the fourth to the Cardinall of *Ferrara* in the year 1561, all Legats in *France*. We find this clause in all these faculties, *To oppose the gainsayings of Generall Councils, and to derogate from them.*

CHAP. II.

That Popes are not above Councils.

The Pope is
not the Church



O make some of the injustice of this usurpation and ascribing too much to the Pope appeare more plainly, wee will make it evident by authentique proofs that the Pope hath no power over a Councell. We shall content our selves with touching upon the most pregnant reasons, yea and to omit such of them too as would draw us into over long discourses. Though wee had no authoritie at all to prove that the Pope hath not any jurisdiction nor command over a Councell, reason alone were

sufficient to lead us to this perswasion. Granting that to be true which is disputed by some, that the Pope is the ministeriall Head of the Church; it is an unusuall thing in all companies and congregations (supreme Monarchies onely excepted) that the Head should have more power than all the body. Hee may doe much when hee is joyned with it: but by himselfe if hee doe ought which doth not proceed well, it belongs to his body to take order with it, to take him under their cognizance, to judge of his proceedings, and of appeals from him, and such like matters. Otherwise the inconveniences are too great when a ministeriall Head hath absolute authoritie. If he be unjust, perfidious, wicked, corrupt, abominable, impious, tyrannicall, inhumane: wee must have patience and submit our selves to all, there being no other remedie, but prayers and teares, to which alone these honest Doctors bid us have recourse.

2 For another reason; what good will it doe us to have Councils hereafter, to what end shall wee use them, if they depend entirely upon the Popes authority? if hee alone may alter all in an instant, make new Canons and Decrees, and no body can say to him, Why dost thou so?

3 Lastly, what a misery, or rather what an abuse is this, that the name of the Church should bee confin'd to one man? that so many goodly qualities and prerogatives as are ascribed to it, should agree properly to the Pope? Yea that hee himselfe should be both the bridegroome and the bride? And I desire all good Catholiques to take notice of this, and to open their eyes that from henceforth they may discern these illusions. They ascribe unto the Pope both the nature of the Head, and the nature of the Body: they say hee is the Bridegroome, and they will have him to bee the Bride too. Heare the testimony of Bellarmine concerning this: *All the names (saith hee) which are given to Christ in holy Scripture, whereby he is set above the Church, the same are all ascribed to the Pope too. He is called the Head of the body of the Church: Hee is styled the husband or spouse.* See here what he saith in one place. Heare also how hee speaks in another place, treating of the same subject, and expounding that passage, out of the eighteenth of St. Matthew, *If thy brother have offended thee, tell it unto the Church*: being not able to disintangle himselfe from that which is objected, that those words are directed to St. Peter, and by consequent to the Pope. *I adde (saith he) that the Pope may fulfill this command by a way of his owne: first hee must reprove him that hath offended, in private; then afterwards before witnesses: lastly, the telling of*

Bellar. l. 2. de
Concil. author.
c. 17.

Bellar. l. 2. De
Concil. author.
cap. 19.

is to the Church; that is, the telling of it to himselfe as President. O terrible id est! which like a magick spell, shewing us the Pope sometimes like a man, sometimes like a woman, makes him an Hermaphrodite. One of the prime expositours of the Canon Law expounded those words thus, *Tell it to the Church, that is, to a Councell*. But that opinion is now cashier'd. Wee doe not live in those times wherein they spoke on that fashion: these are the nowadayes termes of heretiques; and such as are more dangerous.

Pope Gregory
confesseth him-
self inferior to
Councils.

Archiadiconus
in Ca. Præcipue
11 q. 3.

4 I know very well the word *Church* hath reference sometimes to the Pastors of it; and that St. Chrysostome expounded the place thus, *Tell it to the Church, that is, to those that preside in the Church*. And we are content to understand it so: but this were to call the Pope in question upon the same controversie which wee have now in hand: for St. Peter, and by consequent the Pope, being commanded to tell it to those which preside in the Church, that is, to his brethren and fellow-Bishops; this is to make some haile-fellowes with him, and to hold the authority of a whole Council of more force than his alone, which wee will not allow of. Here you see the reason why it was necessary to turne that word Plurall into a singular, and to understand that passage in such a way as the Pope may propound a question to himselfe, and presently make answer to himselfe, and so play *Martin* the Priest; both Priest and Clerke.

5 Hereafter wee must glosse that glosse upon the Decree, where it saith, *If the Pope chance to offend, his fault may be told unto the Church, if so bee it be lawfull to accuse him*. To the Church then, that is, to the Pope; to himselfe and no other. Wee must also make Pope Gregory speake a most fearfull language, and say in spite of his teeth what he never so much as thought on, Pope though he were: for in an epistle of his writ against the Patriarch of Constantinople, who styled himselfe Vniversall Bishop, *We* (saith St. Gregory, speaking of himselfe) *to whose prejudice such and so great a fault, by a bad attempt, hath been committed, doe observe that rule which Truth it selfe commanded, saying, If thy brother hath offended thee, &c. I have therefore endeavoured, by meanes of those whom I sent in my behalfe with gentle words once or twice, to correct the fault which is committed in the whole Church: and now I write my self. I have left nothing undone which I ought to doe with humility: but if I bee sleighted in this my correction: it remaines that I must adde the Church*. That is, according to Bellarmines opinion. It remaines that I tell it to my selfe. And Pope Nicholas the first will bee in the same taking, who useth the same threatening to one of our Kings, namely *Lotharius*, in case hee would not forgoe his concubine *Gualdrada*.

Glos. in Canon
Nemo 9 q. 3.
Injustitia in
Caus. Si papa.
distinc. 41.

Greg. l. 4. Re-
gistri ep. 92.

Canon Præci-
pue. 11 q. 3.

6 But see here a greater mystery yet! for by this reckoning wee shall finde that the Pope is greater than St. Peter. Heare what the same St. Gregory saith in the same epistle; Peter (saith hee) *the chiefe of the Apostles, is a member of the holy Catholique Church*. Paul, Andrew, John, *what are they else but heads of particular persons? and yet all members of the Church under one head? and to binde up all in the compasse of a brief manner of expression, the Saints were before the law, they are under the law, they are under grace too, and yet all three making up the body of the Lord, are made members of the Church*. Now say we to make our argument good, *But the Pope is the Church*, therefore he is greater than St. Peter, yea than God himselfe: For it is said in this passage, that all these Saints which are members of the Church, make up the body of the Lord. But the Pope is the head of the Church, nay he is the Church it self, ergo he is greater than any of the Saints; yea than Christ himselfe. Besides, all the world is spoken of in that passage except the Pope, and yet he was a Pope that spoke it. But there is nothing lost by this, if this exposition bee admitted. Only I finde my selfe a litle troubled to make sense of those words, spoken

Greg. Magnus.
ibid.

Popes confesse
themselves in-
feriour to
Councels.

Damas. apud
Ambros. ep. 79.

ken to St. Peter in the same place of St. Matthew, *If he will not obey the Church, let him be unto thee as a heathen or publican.* For it should seeme by these words that the Church and St. Peter are two things. But I am out : for is it all one as when we speak to a King, to whom we sometimes say (*You*) and sometimes (*Your Majesty.*) Good God what absurdities be these ! what impieties ! what monsters in an age so enlightened, so well weeded ! You see here the testimony of one Pope, behold yet another :

7 Pope *Damasus* making answer to the Judges, deputed by the Synod of *Capua* in the case of *Bonofus*, who did him the honour to aske his advice ; *I received your letters (saith he) whereby either in truth or in modesty you have beene pleased to ask our opinion. But it being adjudg'd by the Councell of Capua, that Bishops next adjoyning should be assigned for Judges to Bonofus and his accusers : we are of opinion that the forme of judgement cannot stand with us: for if the Synod were at this day unbroken up, we should haply ordaine the very same which is contained in your commission. It is your part therefore, who have undertaken the charge of the judgement, to proceed unto it, and pronounce your sentence upon all that concernes it, against which nothing must be attempted. And anon after, Wherefore it is necessary in the first place, that they passe judgement of it to whom the power of judgeing is committed. For us, it were not fitting that we should judge, as having no commission so to doe by authority from the Synod. To this it is said in the Popes defence, that if he would have judged of this case, he might have done so. That's true, he being so fairely invited to it. But it must be granted too, that if he had not beene intreated to it by those to whom that charge was committed by the Councell, he could not have done it. Now it was wisely done of him not to meddle in it, being he had no commission, for in case either the defendant, or the plaintives should have complained to the Councell of his judgement, he could not have stood to it. Hee addes that hee would have beene willing to have passed his sentence of it, if the Councell had beene then assembled. Which must bee understood in case hee had been required, or appointed by the Synod so to doe. For otherwise what greater power could he have during the sitting of the Councell then afterwards. To say that hee would not meddle with it, for feare lest he might seeme to wrong the Councell, by reason of that deputation of Judges by it already made : the wrong had beene farre greater if hee should have bearded the Councell, and undertaken to doe it without being appoynted thereunto.*

8 Pope *Symmachus*, who lived at that time when *Odoacer* was King of *Rome*, fearing least there might be some trouble about the Election of his successor, entreated *Basilus* the Kings Lievetenant in that City, that hee would assist at the election : which was the reason that hee made a Decree about it. But *Symmachus*, perceiving the displeasure which the rest of the Clergy conceived against it, caused a Councell to bee assembled, to consult upon the matter : which declared that the writing containing that Decree, was of no force; adding further, that although it were valid and might stand, *Yet it was the Popes duety to repeale and cancell it in a Synodicall assembly.*

9 Here are two or three things remarkable in this matter. 1 One, that it was a Provinciaall Synod of the Bishops of *Italy*, as appears by the subscriptions, where the Pope hath the maine authority as being the head of it, according to the sixt and seventh Canons of the Councell of *Nice*, in the commentary upon which *Balsamon* saith, it was decreed by the sixt and seventh Canons, *That the foure Patriarches should bee honoured according to the ancient custome: to wit, he of Rome, Alexandria, Antioch, and Jerusalem.* For the Patriarch of *Constantinople* was created by the following Councell. And speaking of the three last, he assignes to every one of them their severall Churches and Provinces. *In as much (saith he) as the Bishop of Rome, hath also under*

Balsamo. in Can.
6. et 7. Synod.
Nicen.

him the *Westerne Provinces*. 2 Another, that *Symmachus* caused that to bee abrogated by a Councell, whereof himselfe was the authour, as appeares by his owne relation extant in the Acts of the Councell. 3 Thirdly, that the Councell saith it belonged to him to cancell that Decree, not of himselfe alone, but together with the body of a Councell. See now what wee inferre from hence: If the Pope had recourse to a *Provinciall Councell* for the abrogating of a Decree whereof himselfe was the authour: if the Councell did abrogate it: if it said that the Pope could not repeal it himselfe, but together with the assembly of a Councell: then it follows that the Pope hath no authority of himselfe, at least not so much as hee pretendeth to: and lesse yet over a *provinciall Councell*, seeing in matters of consequence he can doe nothing without it; and least of all over an *Vniversall and Oecumenicall Councell*. Nor ought we to be moved at that which wee read in the same Acts: *That the Pope was wont to make Synodicall Decrees valid*: Seeing it will not follow from thence, that therefore he is above a Councell: but only that Councells (that is, *Generall ones*) cannot bee holden unlesse hee bee called to them: which is not peculiar to the Pope, but common to him with the rest of the Patriarches, as wee shew in another place.

Provinciall
Councells a-
bove the Pope.

10 And as for particular Councells, the Pope hath nothing to doe with those which fall not to his share, but are held within the Provinces of other Patriarches and Metropolitans, unlesse it bee to looke upon them. And to this purpose that passage of *Balsamon* is remarkable; *The meaning of the Canons is* (saith he) *that the Patriarches should bee above their Metropolitans, and the Metropolitans above their Bishops*. Hee saith not that the Patriarches and Metropolitans may doe all without the Bishops, as our Councell would have it.

Balsamon in 6.
or 7 Can Con-
cilio Niceni.

11 Pope *Hilary* gives us plainly to understand that what is ordained by a Synod, though it be but a *Provinciall one*, is of more force by a great deal than what is done by authority of a Pope alone. For being desirous to reforme certaine abuses which were current in his time, he proposed the matter to the Synod which he had assembled in the City of *Rome*: and saith afterwards, *And so the intent this may be the better looked to for the future; if you please, give us your advice, and set your hands to it, that so the gate to things unlawfull may be shut up by the judgement of a Synod*. To which it was answer'd by the Synod, *Wee confirme it and declare it so to bee*. And from this very clause it followes, that if the confirmation give any authority to the party confirming above that which is confirmed, as *Bellarmino* pretends, a meeke *Provinciall Councell* shall bee above the Pope.

V. Conc. Roma-
num sub Hila-
rio. to. 2.
Et Can. Quod
quis. 35. q. 9.

V. diſt. Conc.
Can. 4.

12 Pope *John* the eight having excommunicated Count *Lambert* and Count *Adalbert*, and some others which had evill entreated him in *Italy*, he came into *France* the yeare 870, where he called a Synod at *Troyes*, consisting of the Bishops of that Kingdome and the Low Countries, to desire their consent to that excommunication, which they accordingly granted him. This he would never have done if his authoritie had beene greater than the authoritie of Councells.

Aimonius l. 1.
c. 37.

13 The Pope otherwhiles at his creation was wont to take an oath to observe *Generall Councells*. Pope *Gelasius* saith there is never an *Episcopall See* which is more bound to keepe the Canons of *Generall Councells* than that of *Rome*. Howbeit at the end of his Epistle hee falls into the Popes disease. The *Dardan* Bishops complaine of him for condemning *Achatius* by his owne authoritie, without calling a Councell.

Can. Confidimus
25. q. 1.
Epist. Gelasii
pape ad Episc.
Dardan. to. 1.
Conc.

14 *Gregory* the Great saith, that hee reverenceth the foure first *Generall Councells* as the foure Gospels: and that he holdeth the fift also in great esteem; and presently addes, *Whosoever presumes to loose those whom these Councells*

Can. ſicut. diſt.
15.

*Jeroms ckeem
of the Pope.*

*binde, or binde those whom they loose, hee destroyes himselfe and not the Coun-
cels.*

*Can. Legimus.
Si autoritas,
dist. 93.*

15 The saying of St. *Jerom*, which hath been inserted in *Gratians* Decree, and therefore must be received at this day as one of the Popes sentences, is of no meane consequence : who being of opinion that Deacons are inferiour to Priests, which hee proveth by many reasons, to that objection made against him, that it is otherwise observed at *Rome*, he answers. *If wee must come to authorities, the world is wider than one Citie; let the Bishop bee in what part of it soever, be he at Rome, be he at Eugubium, be he at Constantinople, be he at Rhegium, be he at Thebes, he is still of the same merit and like priesthood. The power or riches and the humility or poverty doth not make a Bishop greater or lesser. Lastly, they are all the Apostles successors. But you will say unto me, How comes it to passe then that at Rome a Priest is received into Orders by the testimony of a Deacon? Why doe you object the custome of one Citie against me?* See here is enough to prove that the Pope is inferiour to a Councell, seeing that which is practised in his Church cannot bee a law to others : seeing the meanest among the other Bishops hath as much authoritie as he. For if he be above a Council, then all the rest are so : and if he deny it them, hee makes a law against himselfe too. What were the Popes a thinking of when they undertook to pronounce out of their owne mouth that which Saint *Jerom* spoke to their discredit? The Glossatour (it seemes) tooke this for currant money, when he collected from thence, *That the Decrees of a Councell prejudice the Decrees of a Pope, when they are repugnant.*

16 All that is brought to stop this gutter is but lanternes and cresset-lights. As namely, that the Pope is Lord of the world : that the question is there about a custome not ordained by the Pope : that a Councell is not all the world. To puffe away all this dust there needes no more but to compare what they say with the words of the produced passage. He is Lord of the world (say they.) And yet for all that Saint *Jerom* gives no more authoritie to him than to the forriest Bishop : Yes, he is so ; but it is in spirit, just as the Patriarchs of *Constantinople* and *Alexandria*, and other such like which are nowadayes created by him. He speakes (say they) of a custome not authorized by the Pope : then Saint *Jerom* is beside the cushion, when hee quarrels with the Pope himselfe about it. But a Councell is not all the world : Surely no, not with the Pope to boot, seeing he is but of the same size with another Bishop.

*Can. Hec est fides.
des. 24. q. 1.*

17 I will helpe them to a better cudgell, to beat Saint *Jerom* with Saint *Jerom*. For (as it seemes) not remembring himselfe what he now saith to Pope *Evagrius*, speaking to Pope *Damasus* hee saith, *This is the faith, most blessed Pope, which we have learned in the Catholique Church, and which wee have alwayes maintained. But if perchance there be ought amisse in it, we desire it may be corrected by you, who hold the See and faith of Saint Peter. But if this my confession shall be approved by the judgement of your Apostleship, whosoever shall reprove me, will but shew himselfe an ignorant or malicious person, or somewhat besides a Catholique, to wit a heretique.* I will not here set downe what was patched to it afterwards, seeing *Gregory* the thirteenth in his new edition hath confessed that it was a Pope that spoke it, and not Saint *Jerom*. Besides that the passage there added, taken all together, plainly shewes that what is there spoken of this point is no more but a bare wish.

*V. Novam De-
creti edit au-
thoritate Gre-
gorii 13. expur-
gat. to d. Can.
Hec est fides,
24. q. 1.*

18 See here now a many blowes laid on all at once. St. *Jerom* acknowledges the Pope for his superiour, in exhibiting his Creed unto him : hee hath recourse unto him as to an Oracle : submits himselfe to his judgement, which hee extols above all. So then it must bee one of these two, either he is a flatterer, or he is a lyer, seeing in another place hee hath ranked the Pope so low : But it may bee well maintained that hee is neither so nor so. The Bishops and others

others of the Clergy had a laudable custome in ancient time, one of them to communicate with another by letters or otherwise; and mutually to declare the faith they were of, and the doctrine they followed. We could produce divers instances, hereof; but we shall content our selves with one, which gives full satisfaction to all that can be collected from the former passages: It is Pope *Liberius's* epistle written to *Athanasius*, containing a rehearfall of his faith, with a request that hee would approve it, that so he might bee more assured of it; *Wherefore* (saith he) *I beseech you brother Athanasius to subscribe to this confession, that I may be more assured of it, and may fulfill your commands without delay.* Hee that shall take this passage in the strictest sense will make brave stuffe of it. That a Pope, who is the universall head of all the Church, and for whom it is not possible to erre, (as *Bellarmino* saith) would bee further assured in his faith by the approbation of a Bishop: that hee submits himself to do his commands. This is too much. Say we then that they are words of complement aswell in the one as the other. Those which *St. Jerom* useth, are more respective indeed; but wee must consider withall, that it was a meere Priest which spoke to the Pope. Besides, it was the part of a good Oratour to extoll the Pope and his authority, that so hee might gaine his consent, and bring him to approve of that his confession.

Popes faith
sent to others
to approve.

*Epist. Liberii
Papa ad Atha-
nasium.*

19 Nor will I ever deny but that the See of *Rome* had alwayes a great deal of lustre; and much honour was alwayes given unto it: but never so much as to make it a soveraigne Judge, and state it above a Councell. We might further confirme this by divers other testimonies of Popes. They themselves have granted that they may be judged when there is a schisme amongst them, and the election is not rightly performed; as also when they erre from the faith. This is enough to prove that they are inferiour to a Councell. The glossatour goes yet further, when he saith, *That a Simoniacall Pope, or an adulterer, or he that scandalizeth the Church by any other notorious crime, and is grown incorrigible, may be accused.* Now in all these cases they must be judged by a Councell, as the same Glossatour expounds it; whence it follows that they are inferiour to it.

Can. Si duo. dist.

79.

Can. si papa.

dist. 40.

Glos. in dist.

Si papa.

CHAP. III.

Popes judged by Councils.

Councils and
Emperours de-
pose Popes.

Nicholau 1.
epist. ad Impe-
rat. Mich.
Bellarm l. 2. de
authorit. Conc.
c. 19.



He Council of *Sinnesse* in *Italy* condemn'd Pope *Marcelline* because hee had sacrificed to Idols. *Marcelline* fell upon the ground before the Synod, and lying prostrate all along in that manner, hee was condemn'd by the Synod. These Acts are more to bee credited than Pope *Nicholas*, who saith that never a Bishop durst pronounce the sentence of condemnation against him; or *Bellarmino*, who saith that *Marcelline* first condemn'd himselfe.

Synod. 6. Con-
stant. Act. 13.

2 These answers cannot serve in Pope *Honorius* his case, who was condemn'd of heresie by the sixth Generall Councell holden at *Constantinople*. Together with these (say the Acts) we have cast *Honorius*, who was Pope of old Rome, out of the holy Catholique Church of God, and have anathematized him: because we finde by his writings directed to *Sergius*, that hee hath followed his opinion in all things. Here they apply another plaister: this is, say they, for the crime of heresie: and it is the Glossatours pleasure to comprehend symonie, adultery, and other crimes; whereby a man may fall into contempt, under this of symonie. This will prove anon all one with the times of some Emperours, under whom there was but one crime, namely that of treason, but that included all others. For to pisse in his hose (as they say) or at least against a wall was treason.

Gloss. in Can.
Si papa. dist. 40

Platina in vita
Joan. 13.

3 The Emperour *Otho* called a Councell of the *Italian* Bishops, By whose judgement (saith *Platina*) the life of this so lewd a person (hee speakes of Pope *John* the thirteenth) was to be judged: but hee being afraid of the judgement of honest men, fled away. This Pope durst not rely too much upon his letters of Tonsure, I meane upon the Popes priviledge, which is that he cannot bee condemned by any but God himselfe. He chose rather to dye miserably, being stricken by the Devill (as *Platina* saith) than submit himselfe to that judgement. We must here observe that *Platina* relates but halfe the story, as in many other things, for feare of prejudicing the Popes prerogatives: but *Luitprand* a Clergyman, one imployed in affaires, and who lived at the same time, tels us all the businesse from one end to the other: Namely that hee was informed of to the Emperour by the Bishops, the Clergy, and Citizens of Rome for divers crimes: that the Emperour called a Councell consisting of the Cardinals, Patriarchs, and Bishops of Italy, Germany, France, and the prime Citizens of Rome, in *St. Peters Church* in Rome: that the Pope was commanded to appeare by the Emperours letters: that he disdainig to make appearance, the Bishops of the Councell, after they had understood the heads of the accusation, and the crimes wherewith he was charged, were all of one opinion, that *John* ought to be degraded and deposed from the Papall dignity; desiring the Emperour to depose him and put another in his place. Which was done accordingly. Another Historian saith almost as much of him: at least he speakes of his condemnation by the Councell. The King having assembled a Councell (he speakes of the Emperour *Otho*) caused Pope *John* (whose name was *Ottavian*) to be deposed though he were absent, being accused of divers crimes, (for he had declined the judgement by flight) and caused

Luitprandus de
rebus per Euro-
pom gestis l. 6.
c. 6. & seq.

M. Adamus in
hist. eccles. c. 55

caused Leo to be put in his place. Wee must here observe that this Pope John was not accused of heresie, but of fornication, and symony, and leading a scandalous life; as appeares by the rehearfall of the crimes objected against him, set downe by Luitprand.

4 Which we will further confirme by the testimonie of Theoderic à Nibem, who hath some remarkable passages to this purpose. Now that the Emperour (saith he) hath power over the Pope, especially if hee be wicked and incorrigible, and such a one as scandalizeth the Church, doth sufficiently appeare from the acts and exploits of the Emperours or Kings of the Romanes. For Pope John the twelfth (others call him the thirteenth) was sans controversie or dispute, the alone Pope, who before his Papacy was called Octavian, descended of a noble and potent family; who after he was admitted into the Popedome, gave himselfe sometimes to the hunting of wilde beasts: and leading a loose and voluptuous life, addicted himselfe to suspected women; evill entreating some of his Cardinals, and maiming them in their limbes because they had reproved him for it. Afterwards he relates how the Emperour Otho went to Rome: how hee reproved him for his vices: how the Pope standing in awe of him promised to behave himselfe well: how he did the cleane contrary: how, when he understood the Emperour was coming againe, he fled away into the Countrey of Campania. Lastly, he addes, That the Emperour, not spending the time, called a Councell of the Romane Clergy in the City of Rome against that Pope. Where the said Pope being deposed by the unanimous suffrages of them all, another called Leo the eighth of that name, a man of great renowne, of a laudable life and holy conversation, was surrogated in his roome.

Otho Emperour
deposeth and
electeth Popes.

V. Etiam An-
ton. de Rosellus
in cap. Contra-
ria p. 14.
Theodericus à
Nibem l. 3. de
schism. c. 9.

5 The same Emperour (saith the same author) seeing a schisme risen in the Church, returned back into the City, and having understood the difference between the two competitor, quickly called the Clergy together in Councell, and so caused the one of them to be declared Pope, and sent the other, to wit Benedict the second, into exile into Saxony. He addes afterwards in commendation of the same Emperour: Who would then have disputed with this great Otho about his judgement of the competitor for the Popedome, and of one vicious and perverse Pope by himselfe? Who durst have told him that they could not bee judged but by God alone? I wish with all my heart there would come such an Emperour in our dayes, that would cancell the many writings in this labyrinth, which have increased so fast by reason of the multitude of writers, that a hundred Camels would scarce serve to beare them.

Idem lib. 3. c. 10

Idem lib. 5. c. 11

6 Yet the Emperour Henry (saith Platina) having called a Councell, compelled three Popes to renounce the Popedome; namely Bennet the ninth, Sylvester the third, and Gregory the sixth. Popes were otherwhiles deposed by the Councils of Pisa, Constance and Basl. I know very well there are salves invented for all these sores; that the crimes of heresie and schisme are excepted out of the rule. But still it stands good that the Councell is above the Pope, inasmuch as it is his judge in certaine cases. Besides, among these examples there were some that were condemned for other crimes.

Platina in vita
Bened 9. Syl-
vester 3. &
Clem. 2.

7 They say further, that when a Pope becomes an heretique, he is no longer Pope. As if any man lost his honour before hee were condemned. And for schisme, they hold that they that are unlawfully preferred are not accounted Popes. Yet still they are condemned and judged by the Councils as such. And besides, some have beene deposed that were lawfully elected. They hold that the Pope is reserved to the judgement of God alone. It was the courtesie of Constantine the Great which first brought in this maxim; which the Popes have appropriated to themselves, and have excluded their fellow-Bishops from it, howbeit he spoke of all. And see here how well they knew to make their advantage of things! But the worst is, that though they have beene al-

Popes in fact
have yeilded
to Councils.

wayes harping upon their priviledge and exemption, yet they have not alwaies beene beleev'd : but divers of them have beene accused, judged and condemned ; as appears by the former instances. So that in truth, setting aside the testimonies of the Popes, which depose as witnesses in their owne cause, we find no good ground to build this pretended priviledge upon, unlesse it be in certain particular Synods, composed of *Italian* Bishops which depended upon the Popes : as the fourth of *Rome* holden in the time of King *Theoderic* for the condemnation of Pope *Symmachus* : where the Bishops set downe these two maxims. One, that a Councill ought to be called by the Pope and not by the King. Th' other, that he ought to be reserved to the judgement of God. The falsity of the first is apparent from that proove which wee have made of it elsewhere. As for the second, we must perswade our selves that these good Fathers would have us to believe so, who were opposed herein by *Theoderic*, and the Senat of *Rome* : who notwithstanding when all came to all let go their hold, referring all entirely to the will of the Synod ; which used in this matter rather a kinde of arbitrement and composition, than a judiciary processe : putting thus much howsoever in their subscription (for fear lest they should seem to have quitted a guilty person) *That they left the whole judgement of it to God.* Now I am content their opinion be so, that the Pope could not be judged by them : for this must alwayes be understood of a particular Synod, (such as this fourth of *Rome* was) not of a Generall ; seeing there can be no example urged in that kind. And even for particulars, there have beene divers which have proceeded to such condemnations ; the precedents whereof have beene already observed : whereto wee shall adde that the Popes themselves have practised it.

8 As for example, *Stephen* the fourth, who (saith *Marianus Scotus* in his *Chronicles*) so soone as hee was elected desired the Emperour *Pepin*, to cause the most expert and understanding Bishops to judge of Pope *Constantine* in a Synod. The Councill then being assembled at *Rome*, caused all his Priests to be burnt, and *Constantine* himselfe to be buffeted, compelling him to make a resignation : and hee was afterwards burned. *Stephen* the sixth in the yeare 898 Having assembled a Councill, hee caused the corps of *Formosus* his predecessour, to be apparelled in mans attire : and after hee had made him to bee devested of his pontificall garments, he caused him to be throwne into the *Tyber*, after he had made two of his fingers to be cut off : So saith *Martinus Polonus* in his *Chronicle* ; and *Platina* after him in the life of *Formosus*. *John* the ninth in the yeare 900, taking *Formosus*'s part, Held a Synod at *Ravenna* of seventy four Bishops, where that was condemned which had been done by Pope *Stephen*, saith the same *Martin* in his *Chronicle*. See you now how the Popes themselves have proved by their owne practices that they may be judged by particular Councils.

Aeneas Sylvius
epist. 25.
Can. Nos si in-
competenter.
247.

9 As for Generall Councils they never so much as thought of exempting the Pope from their jurisdiction : On the contrary wee read that Pope *Leo* the fourth being accused of treason, that is, of going about to transfer the Empire upon the *Grecians*, hee submitted himselfe to the judgement of *Lewis* the second, Emperour, and King of *France*, as we read in the Decree. See now how that excessive greatnesse findes some superiours, yea and acknowledgeth them too, not abating ought of its right, but applying it selfe to its duty. Wee have made mention already of the condemnation of *Formosus* at the sixth Generall Councill. We know also what was determined concerning this point at the eighth General Council of *Constantinople*, one of the most favourable to the Popes that ever was holden : considering that the Legats commanded there according to their desire, with all the honour done unto them, which he and his predecessours had a long time long'd for. If, when the Generall Councill is assembled

assembled, (saith the 21 Canon) there be any controversie, or complaint against the holy Church of Rome: enquiry ought to be made upon the question proposed with convenient reverence and respect, and to admit of satisfaction, and to proceed, or cause to be proceeded therein: yet not audaciously to passe sentence against the supreme Bishops of old Rome. Whence we collect that it was the intention of the Councel that processe should be made against the Bishop of Rome, with all honour and reverence indeed, then when he was accused in some sort, yet still that processe should goe on against him.

Pope Leo judgd
and cast at
Chalcedon.

10 The Councell held formerly by Photius Patriarch of Constantinople, had condemned Pope Nicholas. This anathematizeth Photius, not because he venter'd to proceed to that reformation, (as some would make us beleieve) but because he had laid a false accusation against him, and for certaine other causes; as the sixt Canon declares; *Wee anathematize Photius for his intrusion into the Church of Constantinople: for his subornation of false vicars: for his adventuring to hold a Councell of vanitie: and for the crimes which hee falsely objected against Pope Nicholas,*

11 The Generall Councel of Chalcedon was Judge in Pope Leo the first his cause against the Patriarch of Constantinople, touching point of honour: which was thus; The Councel of Nice had tacitly assigned the first place of honour to the Patriarch of Rome, the second to him of Alexandria, the third to him of Antioch, and the fourth to him of Jerusalem: and because that Constantinople was then scarce borne, there was no talk of it: but at the second Councel of Constantinople the question was canvassed, where it was determined that the Bishop of that Citie should be honoured as the next Primat to the Bishop of Rome, because it was new Rome. The Pope complained of this Decree to the Councel of Ephesus, pretending that the Councel of Nice was disparaged: the other on the contrary stood for the Decree of the Councel of Constantinople; the Councel gave sentence that what had been there determined concerning this point, should stand; *The reverend Bishops said, This sentence is just: Wee all say so: It pleaseth us all likewise: The Decree is just.* See here how they pronounced against the Pope: whose Legats the next day desired the retraction of that Decree, or at least that their protestation might be registred; and that they might know what to informe the Pope of, to the end (say they) that hee might passe his sentence upon the injury done to his See, or of the subversion of the Canons. Hereupon the Judges pronounced, *Our interlocution was approved by all the Synod.*

Conc. Chalced.
Act. 16.

12 Pope Leo was much displeased with this sentence, which hee did not dissemble in his letters written to the Emperour Martin, Pulcheria the Emperesse, the Patriarches of Constantinople and Antioch, and others. Yet for all that he durst not withstand the Councels resolution, nor proceed any further than only to complaine against it. Howbeit, speaking to the two last, who were interested in the cause as well as himself, hee tels them that hee will not consent to that sentence. Hee had reason, for his consent to it was never demanded. But hee never complains of the Councel for confirming the definition and rule of faith which hee sent thither; but braggles of it in his letter to Theodoret Bishop of Cyprus; which notwithstanding was strictly examined in this Councell, which gave every man leave to impugne it. *If it bee not* (say they) *consonant to holy Scripture, let any man disprove it.* As also they reprove, yet very nimblely, and by way of exposition, that saying of his, *That it belonged to none to expound matters of faith, saving the Fathers of the Nicene Councell;* and they shew how it belongs to others also, not so as to derogate from ought that had beene there determined, but to explaine the controversies which arise about it.

Epiſt. Leonis
57. 58. 59. et 60

Leo papa epist.
61.
Evagrius l. 2.
c. 13.
Conc. Chalced.
in allocutione
ad Mariam
ad finem.

13 Bellarmine seeing that this is prejudiciall to the Sovereignty of his Patriarch,

Decisions of
Popes judged
by others.

Leo Papa ep. 61

Sozomen. l. 4.
c. 10. et 14.

Bellar. De
Conc. author.
l. 2. c. 19.

Augustin.
ep. 162.

Bellar. l. 2. de
Conc. author.
c. 19.

arch, saith that *Leo's* epistle did not containe any definitive sentence, but on-ly his advice: and wee on the contrary affirme, it was his determination and resolution. Let us hear what he him selfe saith of it, *What God had first deter- mined by our ministry, he hath now confirmed by the irretractable consent of all our brethren.* And for the last course, if it may be said, this *Leo* was one of the most ambitious Bishops that ever wore Mitre. Hee that shall peruse his epi- stles without passion, will ever passe this judgement upon him.

14 The Emperour *Constantius*, having banished *Liberius*, another whose name was *Felix* was elected in his stead. The Emperour having recalled *Li- berius* some time after, the Councel which was then at *Sirmium* a citie in *Hungary* writ to *Felix*, and the Clergy of *Rome*, to receive him in such sort as both of them might continue Popes, and might execute that function with one common consent: Which was done accordingly. *Bellarmino* answers two things. First that the Councel doth not command so, but only send some exhor- tatory letters: But this is but a shift: for *Sozomen* saith, the Councell ordai- ned so: Next, that this Councel was composed of *Arrians* for the most part. This consideration were to the purpose if the question were about their do-ctrines: but here the controversie is about a thing which was never in dispute with them. And besides, both the Popes were Orthodox. But bee that as it will be, we collect from hence all that we desire, namely that the Councell passed sentence in the Popes case.

17 Pope *Miltiades* was by the Emperour made Judge betweene the Ca- tholiques and the *Donatists*, and after him the Bishop of *Arles*, as *St. Austin* testifies: at which judgement the *Donatists* being displeased, *St. Austin* adds, *But suppose the Bishops which judged at Rome, did not judge aright: recourse may yet be had to a Councel of the Church Catholique: where both the cause and the Judges themselves may yet bee tryed: that so if they bee convinced to have judged amisse, their sentence may be repealed.* *Bellarmino* quits himselfe but poorely from this argument. First of all he affirms that this cause was judged againe by the Bishop of *Arles*, not (saith hee) because there was any reason why it should be so, but because it was the Emperours pleasure: this I do not deny to be true. But in the second place he saith, that a cause judged by the Pope in a particular Councel, may afterwards bee judged by him againe in a Generall Councel. This is nothing to the purpose; for *St. Austine* saith not that the Pope ought to assist in this Generall Councell as Judge, but only to defend his owne sentence; being in danger to see it repealed if it were found to bee unjust.

16 Besides, if the Pope hold his greatnesse only by *St. Pauls* sword, and *St. Peters* keyes, and if he be above all; then hee ought to bee esteemed as great and grosse in a particular Councel as in a General; seeing that by his reckoning, all Councels whatsoever, are but petty accessories which bring no great advan- tage to the principall. But if he grant that a Generall Councell where the Pope is, hath no more power than a particular where the Pope is also, hee plainly confesseth that the principall authority of Councels is not derived from their heads.

CHAP. IV.

Of Appeals from Popes to Councils.



I Hat which Saint *Austin* proposeth in the place above-cited, touching judgement of a Councell after the Popes sentence, is a kinde of Appeal. This gives us occasion of here setting downe certaine precedents of such as have been put in from Popes to Councils. The Emperour *Ludovicus Bavarus*, the fift of that name, releevd himselfe by this meanes against Pope *John* the twentieth second, who had excommunicated him for taking upon him the name of Emperour before hee was confirm'd by him. Hee appeal'd (saith the *German Chronicle*) to a Generall Councell, and to the Pope (who was now misinform'd in the matter) when hee should be better informed. Yet notwithstanding hee charged his Ambassadors whom he sent to *John*, to use all kinde of humilitie towards him, to see if hee could pacifie him before hee proceeded to this remedie. Which being done they got no other answer but this, *That it was not lawfull for him to demean himselfe as Emperour, and be called by that title, unlesse hee had by way of preamble been confirmed by him after his election: and he appointed him a day to make his appearance at Rome to excuse himselfe, and make satisfaction for his faults, upon condition that in the meane time he leave off the name and administration of Emperour.* And upon his refusall to doe thus hee thundered out his excommunications against him. Whereupon (say the same Chronicles) *Lewes* did appeale from him. And that which followes is worth the noting. The processe of the See of Rome had at that time a great deale of force; for it was a crime in-expiable to be of a different opinion from the Pope. But *Lewes* had some Doctours in both lawes which held the Popes sentence to bee invalid; which opinion of the Doctours was a cause that many stood firme to the Emperours party.

2 The States of *Germany* assembled at *Francford* the yeare 1338 went yet further, for they called the sentence of the Pope, and of his conventicle held at *Avinion*. By the councell and advice of all the Prelates and Princes of *Germany* met together in the City of *Francford*, we declare and ordaine that all such proceedings are of no power, force, nor efficacy. But of this we have spoken sufficiently in the first Chapter of our first Booke.

3 In the yeare 1328 (saith a *German Monke*) Pope *John* in full Consistory condemned the letter of the generall Chapter of the Friars *Minorites* holden at *Perruse*: whereupon *Michael de Cesano*, Generall of the Order for that yeare, made an appeale against the Pope; affirming that the Popes determination touching the poverty of *CHRIST JESUS* was hereticall.

4 In the yeare 1460 *Sigismund* Duke of *Austria* pleaded an Appeale from Pope *Pius* the second to a Generall Councell, in these termes: Considering then that his Holinesse hath bereft us of all hopes of possibility of obtaining justice at his hand,; by reason whereof we cannot appeale to the Pope better informed. seeing that his eares are growne deafe towards us, and his indignation is inflamed after his desire. Wee appeale unto the Pope which shall succeed him, to judge of his

F f

Appeals by
Emperours,
Dukes, Fryars,
&c.

German. Chron.
l. 21 p. 227.
Vide etiam Al-
bertum Argen-
tinens. in Chro-
nic. p. 123.

Naucler gene-
rat. 45.
Adle Alberi-
cum de Rosate
int Bene à Ze-
none. C. de qua-
drien. præscrip.
Et Avertin. l.
7. annal Boio-
rum.
paulus Langius
in Chron. Citi-
zensi sub ann.
1328.

prede-

Appeals from
the Pope made
by the French:

*Aeneas Syl-
vius* *epist.* 14.

*Platina in Bo-
nif. 8.
V. les libertez
de l'Eglise Gal-
licane, versus
fin.*

*Jean le Maire
en la 2. part.
des schismes.
Robert. Gaguin.
lib. 10. in Ludo-
vico 11.
Du Tillet en
son advis sur les
libertez de
l'Eglise Gal-
licane.*

*Appellatio V-
niversitatis Pa-
risiens. quan-
vide in fasci-
culo rerum ex-
pendarum.*

predecessors actions: and to the Generall Councell which shall bee assembled. The cause of this appeale grew from Pope *Pius* his excommunicating of *Sigismund*: and the ground of the excommunication was because that *Sigismund* had kept backe Cardinall *Cusan* from the Bishopricke of *Brixen*, which was within his dominions, being highly offended that it was given unto him in comendation by the Pope. And because the act of this appeale was drawne by *Gregory Haymbourg*, a learned Lawyer in his time, and that he had made it be fixt upon the gates of the Church of *Florence*, the Pope fell a quarrelling with him too, thundering out another excommunication at his head: of which, as also of the former, he makes mention in one of his Epistles. But our Doctor was so little amused with it, that hee put up another appeale in his owne name, from the Pope to a future Councell; which he set out with many prettie reasons: the copie whereof we may reade to this day.

5 We have oft releevd our selves in *France* against the abuses and usurpations of Popes by this course. *Innocent* the third caused this Kingdome to bee interdicted by his Legat which was come hither: and that because of the marriage which *Philippus Augustus* had contracted with *Ingeberge* sister to *Cam* the King of *Dalmatia*. But the King (saith *John le Maire*) armed himselfe with an appeal to a future Councell. Howbeit it is recorded by another author, that the appeal was put in by the Kings Agents from the Legat to the See of *Rome*; but they may be both true. For the appeal might bee first made from the Legat to the Pope, and, because that appeal was not admitted, then from the Pope to the Councell. And I beleieve it was so; considering that we read at this day the Decretall Epistle of *Innocent* which he sent to *Philip*; where he maintaines that his Legats ought not to admit of the Appeal: (*seeing* (saith he) *an Appeal cannot be made from a Minister*;) and that his Legat had done nothing of his owne proper motion, but by command from him.

6 So likewise *Philip* the Faire appealed from the usurpations and insolencies of *Boniface* the eight, to the See Apostolique then vacant (as he said) and to a future Councell, saith *Platina* in his life. This likewise was the meanes which *M. Iohn de Nanterie* the Kings Atturney Generall used against the Bulls of Cardinall *de Balice*, appealing from them to the Pope better inform'd, or unto those to whom the Appeal did of right appertaine. These are the very words as they are in the Collection of the liberties of the *Gallicane* Church.

7 The famous Vniversitie of *Paris*, perceiving the eager pursuit which Pope *Pius* the second made, by his Legat sent into *France* to *Lewes* the eleventh, to get him to cancel the Pragmatique Sanction, appealed from all the Popes attempts to a future Councell, saith the same *John le Maire* and *Robert Gaguin*, who lived at that time. And the same King *Lewes* in the yeare 1463, to secure himselfe from the censures of the said Pope, with the advice of his Parliament, caused an Appeal to be put in by his Atturney Generall from the said Pope to a future Councell: and ordained by an arrest that the Cardinal of *Constance* should be punished, because he had resisted the authorities and rights of the King; saith *M. John du Tillet*.

8 The same Vniversitie put in an Appeal to a future Councell touching the condemnation of the Councell of *Basil* made by *Leo* the tenth, in a conventicle assembled by him at the *Lateran*, and also touching the abrogation of the Pragmatique Sanction wherein that Councell was confirmed. But it is expedient to heare the truly pious words of that generous Vniversitie. 'Pope *Leo* the tenth in a certaine assembly holden at *Rome*, (we know not how, but surely not in the name of the Holy Ghost; for where he is nothing can be consulted upon or determined against the law of God & the Sacred Councils,) hath resolved, we know not upon what advice, to abrogate the said so usefull Decrees, transgressing herein against the Catholique faith and authority of sacred Generall

General Councils, and therefore hath condemn'd the holy Councell of *Basil*. Appeals to
 making certaine other Decrees at his pleasure (under correction be it spoken) Councils a-
 to the prejudice of the Realme and of *Dauphine*, and to the detriment of the gainst the Pope.
 subjects of our most illustrious King of *France*. And afterwards, Having
 made such novel decrees, he hath constrained our most renowned King *France*
 by the perswasion of some body or other, to give his consent unto them,
 while he was in *Italy* employed therein in businesse of warre. Wherewith we
 the Rectour and Vniuersitie doe finde our selves grieved, wronged, and op-
 pressed; and doe provoke and appeale from the Pope ill-advised as concei-
 uing the abrogation of the Ordinances and Decrees of the said holy Councell
 of *Basil*, and the Pragmaticque Sanction thereunto adhering, to a future Coun-
 cell lawfully assembled in some safe and free place, &c. Given at *Paris* in
 our generall Congregation solemnly holden at *Saint Bernard* May the 27.
 1517. A German Monke speaking of this Appeal, saith, Not without cause did
 the Vniuersity of *Paris* become appellants to a Generall Councell against Pope
 Leo, for the good and preservation of the Churches of the whole Kingdome, and
 especially for that the same Pope Leo had undertaken to condemn and disannull the
 Councell of *Basil*, in a certaine assembly or conventicle of Cardinals holden in
 Rome.

9 Some of the Commentators among the Canonists have said in expresse *Ludovicus Ro-*
 termes, that an Appeal may lye from the Pope to a Councell, amongst whom *manus Conf.*
 are *Ludovicus Romanus* and *Abbas Siculus* in his allegations. Such Appeals *321.*
 to a future Councell are not to bee stranged at; for in *France* they got further *Abbas Siculus*
 than so, in somuch that it is lawfull to appeale to the Parliaments from the ex- *in allegationi-*
 citation of the Popes abusive Buls. *bus que incipit*
Quoniam

10 But *Bellarmino* urgeth some examples to the contrary against us, to wit
 of Appeals made from Councells to Popes: the first is of *Athanasius* Bishop of
Alexandria, and *Paul* Bishop of *Constantinople*, who (saith he) being de- *veritas in 10.*
 posed by a Councell, appealed to Pope *Iulius*, and were by him restored *ratione. Et in*
 their Sees againe. This he takes out of the Ecclesiasticall history of *disputat que*
 which makes against him. First, he doth not any way speake of appealing from *incipit. Episco-*
 the Councell to the Pope, for that was not then in use. Hee saith indeed that *pus.*
Athanasius and some other Bishops being deprived of their Sees, and persecu- *Le Recueil*
 cuted by the *Arrian* Bishops which were in the East, fled to *Rome* as to a ha- *des libertes de*
 ven of refuge: that the Pope having heard their confession conformable to the *l'Eglise Galli-*
Nicene Creed, received them into communion, restored them to their Chur- *cane versus fin.*
 ches, and writ to the Easterne Bishops, whom he rebuked for deposing them: *Sozomen lib. 3.*
 but we must alwaies remember that they were *Arrians* and persecuters, and *cap. 8.*
 that the controuersie was not betweene partie and partie. If *Bellarmino* deny
 it, or if he answer that wee must looke here onely to the forme of proceeding
 which was ordinary, we will take him at his word, and presently oppose unto
 him the authoritie of his owne author; who saith that these Bishops so soone
 as they had received the Popes letters, framed him an answer full of ironyes
 and threats. That they confessed, as hee said, that the Church of *Rome* was *Sozomen ubi*
 the principall, as that which was the prime of the Apostles, and the Metro- *supra:*
 politane for pietie ever since the beginning, (howbeit those which planted
 Christian religion there came first out of the East) but they were displeased
 that he should thinke they were inferiour to himselfe, because his Church
 was of a greater lustre; though they excelled him in virtue and sanctitie of
 life. They objected also against him as a crime, that hee had communicated
 with *Athanasius* and the other Bishops: and that they could not endure to
 see their sentence made invalid by him as if it were by a Councell. So that what
 he did was by way of abuse and usurpation, and not by right.

11 The second example is of that Appeal which he saith was made to Pope

Pretended ap-
peals to Popes
answerd.

AE. 1. Concil.
Chalced.
Evagrim 1. 2. c. 2.
Athen. 3. Conc.
Chalc.

AE. 1. ejusdem
Concil.
Nicolani 1. in
epist. ad Mi-
chaellem Impe-
rat.

Sozomen. lib. 8.
cap. 26.

Let the first, from the second Councell of Ephesus by Flavian Bishop of Constantinople, and Theodoret Bishop of Quers. It is easie to make it appear that this was not so. For first it is plain from the Acts that the Appeal was put in simply by the word (*Appello*) without mentioning whither. Secondly, the appellants presented a petition to the Emperours, tending to this effect, that they would be pleased to referre the cause unto a Councell. Thirdly, the Councell passeth the judgement upon the case of the Appeal. And fourthly, the Pope himselfe was condemned by that Synod. He was one of the plainiffes against *Dioscorus* the Head of it. Whereupon it was said to his Legats by the Presidents of the Councell of Chalcedon, That they being accusers could not bee judges. Pope *Nicolas* the first testifies that *Dioscorus* was not so much condemned for his heresie, as for daring to passe sentence against the Pope. To what purpose then had it bene to appeale to him, seeing hee himselfe was condemn'd and was a plainiffe?

12 The third example is of an Appeal made to Pope *Innocent* the first by *John Chrysostome*, who was deposed by a Councell, as it is testified by Pope *Gelasius*. But he makes us sometimes beleieve that they, as other men, will be sure to let us have the best in the packe, when their owne greatnesse is in question. *Sozomen* is more to bee credited in this point than hee, who relating the fact, saith not a word that comes neare to any such Appeal. Onely hee tells us that *Chrysostome* was deposed by a Councell of Chalcedon, (not the Generall, but another) that Pope *Innocent* having notice of the fact, condemned it: that is, was displeased at it, and disallowed of it. That which followes confirms this exposition: that hee tooke paines to get a Generall Councell called: that hee writ some consolatorie letters to *Chrysostome*, and the Clergie of Constantinople, where he was Bishop. Amongst other things hee saith, 'But what remedy can wee apply to it for the present? There must of necessitie bee a Synodicall judgement. So I have said a long time that wee must assemble one. And accordingly hee sent five Bishops and two Priests of the Church of Rome to the Emperours *Honorian* and *Arvandus* to intreat a Synod of them with the appointment of the time and place.

CHAP.

Councils by
their Decrees
above Popes.

taining, made or to be made; if hee doe not repent of it, hee shall undergoe a con-
digne penance, and shall be severally punished; yea and that with recourse, if need
require, to other penalties of the same against him, as further conditions, estate, or dig-
nity soever hee be, though he be Pope. These Decrees were confirmed by the
Council of Basil, and inserted word for word in the second Session held in
the year 1431, and againe in the sixteenth and eighteenth Sessions, in the year
1434, and in the thirty third Session, holden 1439. The Council holden at
Bourges in our Realme of France under Charles the seventh in the year
1438, confirmed the same Decree and transcribed it verbatim into the Prag-
matique Sanction.

4 There was another Generall Council holden at the City of Lausanne, in
the year 1449, where Pope Bull was deposed, and Pope Nicholas
the fifth was confirmed in his place. The Acts of that Council, which was
a Generall one, contain only foure places, to wit, the renouncing of the Pope-
dome by Pope Pells, a general absolution of excommunication, the new crea-
tion of Pope Nicholas the fifth, and the dissolving of the Council: Whence I
have extracted these ensuing places, which serve for this purpose. In the first
Act; Wherefore there is need of strong and ready succours, forasmuch as the
authority of sacred Generall Councils, now more sinned than ever, hath not onely
shaken, but is already borne downe to the ground. For the decision of the Sacred
Council of Constance, which ought never to be forgotten, is not yet quite out of
memory, to wit; to wit, that a holy Synod lawfully called in the name of the Holy
Ghost, making a Generall Council (and representing the Catholique Church mi-
litant, hath its power immediately from Christ; to which every one is bound to
obey in what offends dignity soever hee be, though it be the Pope; for as
much as concernes faith, the extirpation of Schisme, and the generall reformati-
on of the Church of God, both in the Head and the members. As the creation of
Pope Nicholas 'tis said, To set the holy Church of God at peace and union, we
have directed our petition to the person of Thomas, the wellbelov'd sonne of the
Church, called Nicholas the first in his obedience: hoping that he will doe what any
that is to be Pope ought to do, having understood by credible information, that he be-
lieves and followes that which is true, for the preservation & upholding of the au-
thority of Sacred Councils, so as it was determined & declared at the most sacred
Synod of Constance, & renewed at the holy Council of Basil, & received, preached
and dogmatically delivered by the Prelats, Kings, Princes, and Universities of
the earth: to wit, that a generall Synod lawfully called in the name of the Holy
Ghost, making a Generall Council, &c. Which is the Doctrine of the Council
of Constance at large, as it was above rehearsed.

5 In the year 1500 there was another Generall Council, holden in the ci-
ty of Pisa, afterwards removed to Adrian, where these same Decrees of the
Councils of Basil and Constance were afterwards confirmed. So saith King
Lewes the twelfth in his letters patents dated the 16 of June 1512, verified in
the Court of Parliament, containing an approbation of the said Council; to-
gether with his letters written to the University of Paris, containing an ex-
hortation and injunction to them to examine the booke of Thomas de Vio
Cajetanus, intitled De comparatione auctoritatis Papae & Concilii, which hee
had writ against the Councils of Constance, Basil, and the second of Pisa; and
likewise against John Gerson Chancelour of Paris. But there is no need of see-
king proofes abroad, considering that the very Acts of the Council it selfe do
sufficiently prove it. See here the Decrees of it contained in the third Ses-
sion; The holy Generall Synod of Pisa lawfully assembled in the name of the Holy
Ghost making the said Council Generall, and representing the Church Catholique,
doth ordaine and declare as followeth; First, that his holy Synod, nor shall, nor
can be dissolved, till such time as the Church Universall be reformed in faith and
manners,

manners, as well the Head as the members: and till the heresies and schismes which are a growing be extinguished: till the warres, which are a preparing amongst Christians, be accorded. Yet notwithstanding for the continuance of it, it may be removed to a place of safety by the common consent of the fathers; especially with our most holy Father the Pope, if he can be got to agree thereto, alwaies provided that it be not to Rome, it being notorious that it cannot be in safety there. It further ordaines that the Canons of the holy Councell of Constance here underwritten, contained in the fifth Session thereof, shall be strictly observed and kept in the same manner that they lye, and that the contents of them shall be inserted into this Decree, and shall be holden by all men as most true, as they here follow. First the holy Synod lawfully assembled, making a Generall Councell, &c. Item, in the second place it declares that if any man, of what condition, estate, and dignity soever he be, though it be the Pope himself, shall with contumacy neglect to obey the edicts, ordinances, and commands of this sacred Synod, &c. These two Decrees are there inserted at large, but we have here cut them short because they are set downe before.

The Councell
of Pisa against
the Pope.

6 And forasmuch as our adversaries in this point make such a great matter of the Popes authoritie and confirmation, and place the true validitie of Councells in that, we shall make it appeare that it came in at these Generall Councells, either in the convocation, or the presidence, or the approbation. As for the first of Pisa where the roots and foundation of this maxime were laid, heare what Pope Alexander the fift said of it a little before his death: That hee thought and beleaved that all that was ordained at the Councell of Pisa was just and right, and void of all fraud and deceit. *Nauclerus* reporteth the same words. Pope Alexander the fift (saith he) towards the end of the first yeare of his Popeship, beganne to finde himselfe very ill; and perceiuing death to draw neare, hee called the Cardinals, protesting unto them by that death which hee saw before his eyes, which he did no way feare, as being confident of his good life, that hee verily thought and beleaved that at the Councell of Pisa all things were well decreed, and with integritie of heart, without any fraud or deceit.

Platina in A.
lexandr. 5.

Nauclerus tom.
2. Generat. 47.

7 That of Constance was called by John the twenty third, a lawfull Pope, as it is agreed on all sides. His Bull of Convocation is inserted at large in the first Session of the Acts of the Councell: he himselfe also did preside there, as it is said in the Preface. It is true that by reason of the accusation which was a brewing against him, he tooke him to his heeles without bidding adieu: and being condemn'd and deposed by the Councell for many crimes by him committed, himselfe approved this condemnation, as it is to be seen in the Acts of the Councell, and confirmed by the testimony of *Platina*. *Martin* the fift being created in his stead, confirm'd the Decrees and Determinations of that same Councell, as 'tis avouch'd in the last Session.

Platina in Ioan.
23.

Conc. Const.
Sess. ult.

Concil. Basil.
Sess. 1.

8 The Councell of Basil was called by Pope Martin the fift, as it is apparent by his Bull, and being not able to goe thither himselfe by reason of his age, he sent his procurator to Cardinall Julian to preside in his place: which was afterwards continued by Martins successour *Eugenius* the fourth. The same *Eugenius* confirmed the foresaid Decree of the Councells of Constance and Basil in expresse termes, as is cleare from the sixteenth and eighteenth Sessions. Pope Nicholas the fift confirmed also the said Councells of Basil and Lausanne, as appeares by his Bull. Thus much of Popes.

Extat post ult.
Session. Concil.
Basiliensis.

9 As for Doctours and Commentators both in Divinity and in either Law, there are abundance which, either in expectation of some Bishopricke or Benefice, or because they were the Popes mercenaries, have ascribed as much power unto them in their writings as ever they desired, yea more than ever they durst arrogate unto themselves: but yet there are others beside that have refuted their errors, and have taught the pure truth, maintaining the liberty of

Coun-

Authors for
Councels su-
periority.

a *Petrus de
Altiaco in tract.
de potestate Ec-
clesie.*

b *Nicholaus*

Cusanus lib. 2.

de concord. Cathol. cap. ult.

in allegation. contra Eugenium.

c *Cardinalis Florentinus in repetit. cap. licet de election.*

d *Episcopus Gadicensis*

in allegation. contra Eugenium.

e *Panormitanus de Concilio Basiliensi. in disputatione Episcopus. in cap. signifi-*

cassi. de electionib.

f *Joannes Gerson in tract. de potestate Ecclesie. confid. 4, 8, 10, 12. In sermon. pro viagio*

Regis Romani. in Tractat. de asseribilitat. Pap.

g *Jacobus Almain magister Parisiens. adversus Thomam de*

Vio Cajetano.

h *Guilielmus Okkam in 6. lib. 1. part.*

i *Marsilius Patavinus in defens. pacis. part. 2. cap. 21,*

et 24.

k *Hermannus Monachus in lib. de potestate Papae & Concilii.*

l *Jacobus de Paradiso in lib. de sep-*

tem statibus Ecclesie.

m *Joannes de Parisiis in tract. de potestate Regali & Papali cap. 21 in fine.*

n *Im-*

mola in cap. Cum inferior. De majoritate & obedientia. Et in cap. Quanto. De translatione Prælatorum

o *Lu-*

dovicus Romanus conf. 181. & 421. Et in tribus ultimis Conciliis.

p *Gregorius Heimburchensis in Schedulis ap-*

pellationum pro se & pro Sigismundo Austrie Duce. Et in confutatione primatus Pap.

q *Guilielmus de Mont-*

ferrat. in Commentar. supra Pragmat. Sanction. part. 1.

r *Vincentius in allegationibus cap. 13.*

Councels, and their authoritie over Popes. Such are the ^a Cardinall of Cambray, Cardinall ^b Cusan, the Cardinall of ^c Florence, the Bishop of ^d Calis, the Bishop of ^e Panormo, M^r. John Gerson Chancelour of the Vniversity of Paris, James ^f Almain Doctor of the Sorbon, William ^g Okkam, ^h Marsilius of Padua, ⁱ Herman the Monke, ^j James Paradise of Chartres, ^k Joannes of Paris Doctor of Divinity of the Order of Predicants, ^l Immola, ^m Ludovicus Romanus, ⁿ Gregory of Heimburch, ^o William of Montferrat, ^p Vincentius in his allegations, and many more.

c *Cardinalis Florentinus in repetit. cap. licet de election.* *d* *Episcopus Gadicensis in allegation. contra Eugenium.* *e* *Panormitanus de Concilio Basiliensi. in disputatione Episcopus. in cap. signifi-* *cassi. de electionib.* *f* *Joannes Gerson in tract. de potestate Ecclesie. confid. 4, 8, 10, 12. In sermon. pro viagio Regis Romani. in Tractat. de asseribilitat. Pap.* *g* *Jacobus Almain magister Parisiens. adversus Thomam de Vio Cajetano.* *h* *Guilielmus Okkam in 6. lib. 1. part.* *i* *Marsilius Patavinus in defens. pacis. part. 2. cap. 21, et 24.* *k* *Hermannus Monachus in lib. de potestate Papae & Concilii.* *l* *Jacobus de Paradiso in lib. de septem statibus Ecclesie.* *m* *Joannes de Parisiis in tract. de potestate Regali & Papali cap. 21 in fine.* *n* *Im-* *mola in cap. Cum inferior. De majoritate & obedientia. Et in cap. Quanto. De translatione Prælatorum* *o* *Lu-* *dovicus Romanus conf. 181. & 421. Et in tribus ultimis Conciliis.* *p* *Gregorius Heimburchensis in Schedulis ap-* *pellationum pro se & pro Sigismundo Austrie Duce. Et in confutatione primatus Pap.* *q* *Guilielmus de Mont-* *ferrat. in Commentar. supra Pragmat. Sanction. part. 1.* *r* *Vincentius in allegationibus cap. 13.*

CHAP. VI.

The opinions of Vniversities touching the authority of Councels, and the approbation of Princes and Provinces.



He most famous Vniversities of Germany and Poland have also given their opinions upon this point, consonant to the Decrees of the foresaid Councels: and that at the very time when the Princes of Germany for the good will they bore to Eugenius, resolved to carry themselves neuters, as in conclusion they did. The said Vniversities withstood this neutrality stoutly and strongly; laying this for a ground, that a Councel is above the Pope: which they prove by many reasons and authorities: and therefore seeing Pope Eugenius was deposed by the Councell of Basil, and Felix the fifth elected in his place, that therefore the first must be rejected as schismaticall, and the last obeyed as legitimate. King Charles the seventh favoured Eugenius likewise, but so as that he professeth he will stand to the Decrees of the Councell of Basil above all, (as Nicholas Clemangiis tels us) as did also the Princes of Germany. But let us heare what the Vniversities say of the power of Councels, as for the other heads of their answers, wee shall forbear from relating of them by reason of their prolixity.

2 The Vniversity of Cullen, being required by Theodorus Archbishop of that Citie, to let him know what they thought of it, made a litle tract, some pieces wherof we will here set downe. The first proposition is, The Church Synodically assembled, hath supreme jurisdiction upon earth, to which every member thereof ought to obey, of what dignity soever he be, though it be Papall: which no man can dissolve or remove without their Synodical consent. This is proved by the Decrees of the Councell of Constance and Basil. The first part is grounded upon that in the 18 of St. Matthews Gospel; Tell

The Vniversity
of Colons opi-
nion.

it unto the Church. Where (as it is collected from that which follows) is signified the power of jurisdiction given to the Church Synodically assembled. And there are many good writings upon that subject, and diuers testimonies of Scripture, whereby that truth of the Councils of *Constantinople* and *Basil* is confirmed. There have been infinite books and treatises writ of it already. The second part is cleare, inasmuch as the sonne, the servant, the Scholar, is bound to obey his mother, his maister, his schoolmaister: but the Church is the mother, the mistresse, and the pedagogue of all the faithful in Christ, of which number the Pope is one, though he be the eldest sonne, and the chief servant: styling himself, not in a feigned humility, but in a Catholique verity Christs Servants Servant, and the principall among all the other disciples of the faith. So then he is set as the rectour, pastour, and Doctour of the rest of the faithfull of Christ, in Christs corporall absence, who is alwayes mystically and spiritually present: and by Christ the spouse of the Church, the father, lord, and maister of the faithfull, by the authority of Christ, and of the Church his wife and Spouse; which is another new *Eve*, sacramentally taken out of the side of the new *Adam* sleeping upon the crosse, and joynd in marriage with him, as th'Apostle witnesseth. This is a great sacrament, betwixt Christ and the Church, not betwixt Christ and the Pope. Whence it is easie to shew that the Church Synodically assembled is a iudiciall consistory, and supreme over all the faithfull of Christ. And from hence also the third part of the conclusion is evident; inasmuch as no party can transerre or dissolve the Judges Seat at his pleasure. For if the Pope had this power, he should bee above not under the Church, using not a mere borrowed power of the Apostolique keyes, but an absolute free Princedome, a jurisdiction belonging to himselfe. And hee should not bee only the Pastour and steward over the sheep and lambes of Christ, but the King and Pastour of his owne sheep, against that which is said in the last of *St. Johns* Gospel, Feed my sheep: hee saith not feed, thine own. Besides, if the part had power over the whole, the thing contained over the continent, the particular badnesse of the Pope might overfway the universall good of the Churches intencion, and the Popes pleasure should be a law to the whole Church. And that Church, which in one of the Articles of our Creed we beleve to bee holy, built upon the immoveable rocke of our Christian faith, should be made subject to a moving, to a moveable and erring Prince; against which (saith Saint. *Jerome*) neither vices nor heresies, which are meant by the gates of Hell, shall ever prevaile.

3 The Vniversity of *Erford* was of the same opinion, and gave the same advice concerning the receiving and approbation of the Council of *Basil*, which they directed to *Theodorus* Archbishop of *Mentz* in the year 1440. We will here set downe some passages of it; Now it is fitting to see which of the two ought to bee obeyed, whether *Eugenius* or the holy Council: having shewed the validity and subsistence of the Council of *Basil*, the superiority and preeminence of the Council is proved thus. Although the Pope or supreme Bishop bee so the principall part of the Church, or in the Church, that there is no one member of the said Church or particular council, greater or more principal than he, nor indeed so great as he is avowed and acknowledged to be by all those that have treated of the power of the Pope. Yet no Catholique, that will understand the matter, can ever doubt but that the whole Church, or a firme and subsistant Generall Council, is greater than he, and his superiour in matters that concerne faith, or the extirpation of schismes, or the generall reformation of manners. For this was determined by the authority of the Church Catholique at the sacred Council of *Constance*, and confirmed at the holy Synod of *Sens* and of *Basil*, in these words; That a Synod lawfully assembled, in the name of the holy Ghost, making a Generall Coun-

The Vniversity
of Esfords opi-
nion.

sell, and representing the Church militant, hath its power immediatly from Christ, to which every one is bound to obey, of what estate or dignity soever hee be, though he be Pope, in matters which concerne, &c. And although this declaration of the Catholique Church might suffice alone to prove the supreme authority of sacred Councils upon earth: yet notwithstanding, for the greater confirmation of what hath been spoken, That the rest of the body of the Church (excluding the Pope, if he bee contrary to it) hath this authority, there may be brought both reason, and experience, and authority. In the first place, reason teacheth us, &c. After they have proved this in manner aforesaid, at last they conclude in this sort. Considering then that all General Councils are grounded upon such authority, that if they be assembled about faith & reformation of manners, & that which belongs thereunto, every man from the least to the greatest is bound to obey them: at also considering they cannot erre, and that the sacred Council of Basil continues firme and undoubted untill this day, as hath beene proved. From hence three things are inferred: First, That if a General Council and the Pope, though hee bee truly and reallie Pope, be at variance, and command contrary things, the most illustrious Princes Electours, and all other Christians ought and are bound to obey the Council and leave the Pope. The second, that the sacred Council of Basil and Pope Eugenius that was, commanding contrary things, they are bound to yeeld obedience to that sacred Council and not to Eugenius: Tea to account him no Pope, seeing the Council had power to proceed to the deposing of him for his disobedience. The third, that they are bound to obey the most holy Pope Felix, who was chosen by the Council.

4 The counsell and advice which the Vniversity of Vienna gave to the Archbishop and Metropolitan of Saltzburg, upon his request made unto them, is conformable to the former. To the second, namely whether the holy Council of Basil had full power to proceed against Eugenius, and to depose him and create another, it is answer'd; That the holy Ghost hath openly declared by the Organ of the sacred Council of Constance, that the Church, and a holy Council which represents it, hath such a power over any man whatsoever he be, although he be placed in Papall dignity. Afterwards they adde the Decree of the said Council which hath beene here alledged already; together with another of the same Council, made against those that doe not obey the commandements thereof, though they be placed in dignity Papall. And in another place 'tis said, 'It followes then that the Holy Ghost is there, (at the General Council) but not as a subject, but as a supreme President, from whom it is not lawfull for any of the faithfull to make appeal, and by consequent not from the Council neither, forasmuch as concernes the Articles, wherein it is certaine the Council is governed by him, and that hee presides there by a speciall grace and lustre: to wit, in what concernes faith, the extirpation of schismes, and the reformation of the Head and the members. How can it be otherwise but an open contempt of the majesty of God, and almost a piece of Idolatrie to appeale from a Council to the Pope in such cases? what is it else but to appeale from God himselfe, who is confessed to preside in a sacred Council for such things, unto a meere man? and to take the power of judging from God the Creator, and devolve it upon a man? what is it else but to preterre a man before God as a more just Judge than he?

5 The Vniversity of Cracovia gave also their advice and counsell concerning this point unto Ladislaus King of Poland and Hungary, consonant unto the former, but farre more large, containing some very pretty reasons to prove that the Pope is inferiour to a Council; out of which wee shall bring onely some passages to make it appeare what their resolution was. First of all it is said, 'That a Generall Council representing the Church Catholique, is a rule directed by the Holy Ghost, and given by Christ Jesus, which every one is bound

bound to hear and obey, of what estate and condition soever he be, although he be a Pope. And in another place. 'Whence it followes, that the Pope is not head of the Catholique Church nor of a Generall Councell which represents it; but he is head in respect of particular Churches and particular members in the Church. In reference to whom he is supposed to have full power as the Vicar of Christ. And elsewhere. 'Wherefore let this bee the third conclusion concerning this point. That every Generall Councell lawfully assembled in the name of the Holy Ghost, doth represent the Catholique Church, and hath its power immediately from Christ. This proposition hath no need of prooffe, considering that it hath its prooffe and foundation from the decree of the Generall Councell at *Constance*. See here the very words of it, that wee may not bee put to repeat them hereafter. These are the two Decrees of the said Councell, which wee have inserted here before. After which it is said, 'Behold the Constitution of the sacred Councel of *Constance*, which may suffice to make any man consent unto this conclusion, considering it is the assertion of the Catholique Church. After the prooffe of the said conclusion, they proceed unto the fourth in this manner. 'And forasmuch as the Catholique Church and the Generall Councell which represents it, hath its power immediately from Christ by the former conclusion, let this now bee the fourth. The power of the Church Catholique, as also of every Generall Councell lawfully assembled, which doth represent it, is above the power of the Pope, and all other power whatsoever upon earth, to which every one of what estate, condition or dignitie soever hee bee, though it bee Papall, is bound to obey and submit himselfe. And if he will not obey he may be punished with condigne punishment. This conclusion they prove by many reasons and authorities, which it would be long to set downe in this place. Wee shall onely say how that, serving themselves with the authoritie of the Councell of *Constance*, and having related at large all that passed in that respect, they adde, 'All which facts of that Councell are and will be a perpetuall memoriall unto succeeding generations. Whence it plainly appeares whether a generall Councell have any jurisdiction over the Pope or no. Which every bodie that hath any judgement may easily know. Where it is to bee observed that the authoritie of the Councell of *Constance* was not any way doubted of in those dayes, but continued generally approved by all in this respect. In another place it is said, 'Whence it may be inferred, that, although it be convenient the Pope in some sort should be called the head of the Church, yet ought he not therefore to preferre himselfe before the Church. Yea it might perhaps be inferred from hence, that, *eo ipso*, because hee quarrels with the Church for superioritie, either in his actions or affection, hee not onely is not superiour, but also that he is no member of the Church; as one that is ill opinion'd of the authoritie of the holy Mother the Church, and deficient in the true faith. It is further said towards the end of that conclusion: 'Whatsoever hath been heretofore delivered in this point by the Glosses and Doctors sometimes for the affirmative, sometimes for the negative part, we must now stand to the decision of it made by the sacred Councell of *Constance*, for as much as concernes those cases expressed in their Decree: to wit when the question is about faith, or the extirpation of schismes, or the reformation of the Church in the Head and members, and in cases thereunto belonging: as when the controversie is about a notorious scandall, and so of others. In all these the Pope is inferiour to a Generall Councell. And if any man be strongly confident of the contrary, he ought to bee esteemed a heretique. I could yet extract some other passages, but see here is more than needs for them that hold the contrary.

Councils urged to prove the Pope inferiour to Councils.

6 Now we come to our Vniversities of *France*, which have all approved this

Councils of
Constance and
Basil approved
by Princes.

this opinion; That the Pope is inferiour to a Councell. Which they did not by their severall counsell and advice, as those of *Germany* and *Poland*, but being all Synodically assembled at the Councell of *Bourges*, together with all the Prelates and chiefe Lords of the Land, as it is affirmed in expresse termes in the narrative of the Pragmatique Sanction, whose words wee have set downe in another place.

7 And for that of *Paris*, as she excels all the rest in dignitie and knowledge, so hath she perform'd the bravest exploits in this regard. For shee not onely approved the Decrees of the Councils of *Constance* and *Basil* at that time; but even after that, when she saw that Pope *Leo* the tenth went about to repeale them in the Pragmatique Sanction by the Councell of *Lateran*, and by the Concordats made with King *Francis*, shee put in an Appeale to a future Councell, with such masculine and generous termes as the honour of *France* might require: as appeares by certaine passages which we have drawne out of them before when we spoke of Appeals from the Pope to a Councell.

8 Besides, the second Councell of *Pisa*, holden in prosecution of those of *Constance* and *Basil*, did her the honour to desire her to write against *Cajetans* booke, wherein he maintaines that the Pope hath authoritie over a Councell. See here the letters which were writ unto her upon that occasion. *The holy Councell of Pisa lawfully assembled in the name of the Holy Ghost, representing the Church Catholique, and by way of continuation, removed to Milan for a time, to our beloved sonnes the Rectours, Doctours, Masters, and Regents of the mother nurse the University of Paris, health and blessing from God Almighty. Our beloved sonne Jeffrey Boussard Chancelour of Paris, will by our direction deliver unto you a certaine suspected booke full of injuries against the Councils of Constance and Basil, and against ours, and against Iohn Gerson the maine defender of the Church, made by a certaine Frier Cajetane, a bold fellow, and a dangerous: who we desire may be corrected according to his desert. Wherefore we desire you in the name of the Lord to examine and diligently to sift that booke, and speedily to send us your resolution and opinion of it, to the end that we may proceed with your sage advice according to the merit of his boldnesse. See here their most respective letters, and withall those which were writ unto a company which hath alwaies beene reputed in effect the eye and light of the world.*

platina in vita
Joannis.

9 Let us now speake of the approbation of Princes and Provinces. First, it is to be observed that the Deputies of the chief nations in Christendome were present at the Councell of *Constance*: to wit, of *England*, *France*, *Germany*, *Spaine* and *Italy*: As is apparent from the Acts of it, and from the testimony of *Platina*, who speaks thus of it; *The affaires of the Councell (saith he) were managed by the votes & suffrages of five nations; to wit, of England, Italy, France, Germany and Spaine. All that was decreed and resolved upon by suffrages of these nations continued firme and strong, and was proclaimed and publiquely declared by a cryer or publique notarie: insomuch that it was afterwards confirm'd by the generall consent of all.*

Aeneas Sylvius
lib. 1. de gestis
Concil. Basil.

10 The Ambassadors of divers Princes were at the Councell of *Basil*, namely, of the Emperour, the King of *France*, the King of *Spaine*, and others. The Decrees thereof were also approved in the diet of *Mentz* in *Germany* by the Electours of the Empire, and the Oratours of the Princes of *Germany*: witnesse *Aeneas Sylvius*, afterward Pope *Pius* the second: witnesse also the University of *Erford* in *Germany*, which speaketh to the Councell aforesaid in this manner; 'The Princes without all doubt or hesitation whatsoever have taken their oathes, and yeelded obedience, by themselves or their Ambassadors and lawfull Attorneys, unto that sacred Councell, as also after that in the Dyet of *Mentz*. The pretended abrogation of this sacred Council being already decreed, admitting of it with certaine qualifications, they make

'no

'no scruple about the power of it, as it is contained at large in the letters set out touching the acceptance of it, in these words; Wee accept and receive presently, and without delay, with all devotion and reverence, the foresaid Decrees of the holy Councell of *Basil*, with convenient caution, as touching the correction and reformation of the things aforesaid, some simply, as they ly, others with certaine formes and modifications. Not that we doubt of the power of that sacred Councell which made them, but to the intent that they may stand with the convenience of the times and manners of the said Councell of *Germany*, as it is hereafter specified. The Vniversity of *Vienna* saith likewise to the same Councell, *That all Christian people called it a Councell lawfullie assembled, and received it with all reverence.*

The Pragmatique Sanction yet in force.

11 Our Kings of *France* have approved all these three Councils of *Constance*, *Basil*, and *Pisa*: to wit, the two former in the Pragmatique Sanction, with certaine formes and qualifications, which concerne especially the liberties of the *Gallicane* Church, and doe not any wayes derogate from the power of the Councell over the Pope: for the Decrees which were made in that kind are inserted there by name. And the last, together with the two former, by the letters patents of King *Lewes* the twelfth, of the 16 of June 1512. And although Pope *Eugenius* the fourth was very earnest with King *Charles* the seventh, to get him to repeale the Pragmatique Sanction, and reject the Councell of *Basil*, after the translation of it to *Ferrara*: yet for all that hee could not obtaine it, but answer was made to his Ambassadors; *That the King had acknowledged the Councell of Basil for a true Councell; that hee had sent his Ambassadors thither: that divers good things had beene there ordained concerning faith and manners, which he approved of; and that he never accounted that assembled at Ferrara for a Councell; That for the Pragmatique Sanction his pleasure was it should bee inviolable observed and kept.* The same Pragmatique Sanction, which is nothing else but the substance of the Councils of *Constance* and *Basil*, was afterward confirmed by King *Lewes* the twelfth, after it had escaped shipwrack under *Lewes* the eleventh, together with the Councell of *Basil* aforesaid, by an Ordinance made in the yeere 1499.

V. Pragmatic. Sanct. in promissio.

V. Nicolaum de Clemangia in fasciculo rerum expetend. Constitutio Ludovici 12. ann. 1499. art. 1. *quod vide in tit Des Pragmat. Sanction. in Regis Constitut.*

12 Since that time there was a Concordat made betwixt King *Francis* and Pope *Leo* the 10; which derogates from it concerning the point of Elections, Presentations, and such like things, but not in that which concernes the power of a Councell. For see here what the same Prince saith of it; to wit, that, *To avoid the great dangers which may happen hereafter about the recalling of the Pragmatique, whether such revocation be obeyed or it bee not, (which may bee foreseen by all such as are well affected) hee hath made certaine Concordats with the holy See Apostolique.* Now in these agreements there is nothing expressed either for the confirmation or abrogation of these decrees concerning the power of Councils: although that was the maine cause that stirred up the Popes hatred against that poore Pragmatique. And if so, it is yet further to be observed that the Vniversity of *Paris* hath put in an Appeale from such Concordats to a future Councell.

Franciscus 1. in Constitut. fa 7a. super Bulla Leonis 10 de Valore Beneficiorum.

CHAP. VII.

A confutation of their reasons that maintaine that the Pope is above a Council.

Councils of
Constance and
Basil decree
Councils to be
above Ppes.



He Popes are in default who have endeavoured to obscure this truth ; yea desired to overthrow it in the suit, either by their proceedings, or by their Decrees and their Conventicles ; or by the writings of their hireling Doctours, whom it is now my task to answer, but very briefly, because it is none of my proper designe : beside, that which I have touched upon above may suffice abundantly.

2 Their maine incounter is with the Councils of *Constance* and *Basil*, yet so as they cannot agree amongst themselves about them. For some of them say, It was not absolutely determined by them that Generall Councils have power over Popes, but onely in one case, to wit, when there is a schisme, and it is doubted who is the true Pope. But the very words of the two Decrees which we produced in the former chapter, doe sufficiently refell them, so that we need say no more of that. They doe not onely give the Councell power over Popes in case of schisme, but in all that concernes the faith, in all that concernes the reformation of the head and members, and all things that depend thereupon.

3 What would a man desire more ? *Bellarmino* knew well enough that this reason is but of base alloy, for contenting himselfe with the bare mention of it, and quoring of the authors, for his part he hath recourse unto others, but such as are no whit stronger. He saith then, for the Councell of *Constance*, that when it made these Decrees it was not such as had power to determine controversies of faith, inasmuch as it was not then Generall ; that it had but the third part of the Church, to wit, onely so many Prelates as obeyed Pope *John* the three and twentieth, and not those which obeyed *Gregory* the twelfth, and *Bennet* the thirteenth. And marke here how hee would enervate what was done by a Generall Council, because of the absence of some schismaticall Prelates. By this reason all the Councell should be a nullitie, from the beginning till the end, and not a part of it only, as he would have it. For the Prelates which acknowledged *Gregory* for Pope, never assisted at it but persisted with their Pope in that schisme, even til the end. And yet *Bellarmino* affirms that this Councell is legitimate and approved : only for the reason aforesaid, hee excepts that Session wherein these Decrees were enacted. It was not then such (saith he) that it had power to make these decisions in matters of faith. But, I beseech you, a Council consisting of two hundred Fathers then when it made these Decrees, where the Emperour and many other Princes were present in person ; the Ambassadors of all the Kings and Princes of Christendome, except two, the Proctours and Syndiques of all the Nations and Vniversities in Christendome, and so many persons of another quality in such abundance that above thirty thousand horse were seen to arrive there at the beginning, as *Naucerus* testifies. This Councell, I say, (according to *Bellarmino*) could not ordaine

*Platmain Eu-
genio 4.*

ordaine anything concerning the power of the Pope and of a Council, by reason of the absence of some schismaticall Prelats. Now let any man be judge, if any thing firme and strong can bee expected from Councils. Now that all those whom wee mentioned were at the enacting of those Decrees, is apparent from the very text of the fourth Session: the words are these; *The thirtieth of March there was holden a Generall Session in the Cathedrall Church of Constance, in which there were two hundred Fathers, &c. There was also the King of the Romans, with the habit and formalities belonging to the King of the Romans. After masse was done the Cardinal of Florence read certaine constitutions which should be observed by the Councell, the tenure whereof is set down hereafter: which being read and approved by the Generall Councell, Henry de Piro, Proctour and Syndic for the German nation, did desire in behalfe of that Nation, that a copy of those ordinances (that is, the Decrees mentioned) might be given unto him: The like was required by the Proctours and Syndics of all the countries subject to the King of the Romans, of the Universities, the Schooles, and Ambassadors: there being present at the same time the most illustrious Princes, Frederic Burgrave of Noremberg, Ralf Duke of Saxony, the Count Madenburg, Count Bertold de Ursinis, the Ambassadors of the Kings of England, France, Poland, Norwey, Cyprus, Navarre, and also John Vicount of Milan, the Marquesse of Montferrat, and divers other nobles, and reverent Fathers in great abundance. Shall two schismaticall Popes with their Prelates of the same stiffe have more authority than all this great multitude?*

The Council
of Constance
asserted against
the Pope.

4 Now that these Fathers were Schismaticall (and consequently those of their faction) before those Decrees were made, is apparent from the testimony of *Platina* himselfe, who speaking of the first Council of *Pisa*, where their deposition was decreed before that of *Constance*, By mutuall consent (saith he) they deprived Gregory and Benet of the Papall dignity, all nations assenting to that so hard sentence, except the neither Spaine, the King of Scotland, and the Earle of Armaniac, who favoured Pope Benet. Now this deposition, together with all the Decrees of this Council of *Pisa*, was confirmed by *Alexander* the fifth, who was accounted lawfull Pope. And yet *Bellarmino* will have these two Popes with their Prelates to make two parts of the Church. For see what hee sayes of the Councell of *Constance*; *It was not then a Generall Council because there was only the third part of the Church there; to wit, only those Prelats which obeyed John. For those which obeyed Gregory and Benet did oppose that which was done by the Councell.* Hee saith further, *That there was no certaine Pope in the Church, without whom controversies in faith cannot bee determined.* So that hee doth not acknowledge *John* for Pope, who was then acknowledged by all, and was so ever after untill his condemnation. *Platina* testifies that he was created at *Bonomia* with the consent of all. It is he that called the Council of *Constance*: it is he that assisted in some Sessions of it. He was not indeed at the fourth and fifth; where these Decrees were made, by reason of his flight. But hee was lawfull Pope tho, and continued so still till he was deposed and condemn'd; which was occasioned by his lewd life, and those crimes committed by him. As also on the other side hee acknowledged it for a lawfull Councell. For upon the very day of the fourth Session, came the Archbishop of *Rhemes* with letters of credence from him, the contents whereof were, *That his suddaine departure was not for feare or cowardice, but by reason of the bad aire; and that he offered to fulfill all that he had promised to the Councell: and when they proceeded to his condemnation, approv'd of all, adding that in all things hee conform'd himselfe to every ordinance, deliberation, and determination of the said sacred Councell: and that he ratified the processe made against himselfe, affirming the Councell of Constance is most holy: that it cannot erre: that it is a continuation of that of Pisa: and that he would never contradict the sacred Councell of Constance.*

Platina in Gregorio 12.

Platina in A. lexan. 5.

Bellarmino. l. 2. de Conc. author. cap. 19.

Platina in Joanne 14.

Conc. Constant. Sess. 4.

Conc. Constant. Sess. 11.

5 But

The Councell
of Constance
confirmed by
the Pope.

Cons. Constant.
Session, 4. et 5.

Conc. Basil.
Session, 2. et 3.

5 But suppose there was no Pope certain, what followes upon that? That the Councell (saith *Bellarmino*) could not deliberate upon matters of faith. This is ever to returne to the place whence wee came: 'tis as much as to say. The Pope alone is more than all the body of the Councell. Hee hath more authority than it. The Councell hath not its power from Christ immediatly. But see here that which strikes the stroke! Pope *Martin* the fifth accounted legitimate by all, and confessed (God be thanked) even by *Bellarmino* himself, hath approved the Acts of this Councell in the last Session of it. *Bellarmino* flies to his distinctions, saying, He confirmed only such Decrees as concerne the faith; such as were made Conciliariter, that is, (saith hee) according to the use in other Councells, after the thing had bene diligently examined. And it is apparent (saith he) that this Decree was made at the Councell of Constance, without any examination. How does that appeare? doth not the passage above recited shew the contrary? It is not said there were any disputes or controversies about it: nor that any man did stand out against it: nor that there were diversities of opinions about it. What, is it therefore lesse valid because it was agreed upon by the common consent of two hundred Fathers? by so many Cardinals, so many men of note? and decreed at two severall times, and at two severall Sessions? which is a sufficient testimony that it was maturely consulted and deliberated upon. Besides, it is thought sufficient to register the Decrees and resolutions in the Acts, but not the disputes. For example, *Anas Sylvius* tells us at large of very deepe and difficult disputes that were controverted at the Councell of *Basil* about this very point; to wit, concerning the power of a Councell in relation to the Pope. And yet hee that shall read the Acts of that Councell will finde nothing there but the bare Decrees, without any mention made of the discussion which was of them.

6 When *Eugenius* his Legats were arrived at *Basil*, to preside at the Councell in stead of the Pope, by virtue of his letters: 'They were not forthwith admitted (saith the University of *Cracovia*) but a greater number of the most learned Doctours in the world were deputed, that having searched the Scriptures and the sacred Canons, they might advise whether these Presidents ought to bee admitted to a coercitive Presidence and full authority, such as they demanded, or no. Who having continued a long time upon that deliberation, they were of opinion, that this coercitive Presidence ought not to be granted them. And the thing being afterwards consulted upon, it was concluded according to their opinion. Read now the seventeenth Session of that Councell, you shall finde nothing there but the bare resolution, without a word of this above. So that we beleeve that this Councell of *Constance*, which consisted of the most learned Divines and Lawyers that were then alive, did not passe these two Decrees till they had thoroughly examin'd them: especially considering the thing was put to the tryall againe.

7 *Bellarmino* wrongs them to beleeve otherwise of them; but wee shall not wrong him by retorting his exposition upon himselfe and his Councell of *Trent*; and rejecting all the Canons and Decrees of it, as not made Conciliariter. For there is not a syllable to that effect in the Acts of the Councell: but on the contrary wee have shewed by divers testimonies, that they did nothing but suppe up the porridge which was sent them from *Rome*. But 'tis strange that in his exposition by the word Conciliariter, hee would exempt those Decrees from Pope *Martin*'s approbation. The word to an understanding man signifies no more but Synodaler, that is, in a Synodall assembly. Now it is certaine these Decrees were made in full assembly, and in two severall Sessions. What would he more?

8 But I desire all men to observe this one thing; that the Councell of *Constance* was not question'd or controverted of old in this respect, as appears from

from those passages which we have produced in the former chapter out of the Opinions and Advices of the Vniversities of Germany and Poland; who hold the authoritie of the Councell of Constance for undoubted, and argue from it as from a received and irreprovable authoritie. Pope Martin did sufficiently approve it, when hee tooke an oath at his coronation, *To beleeeve and maintaine the holy Catholique faith, according to the traditions of the Apostles and holy Generall Councels.* When he called the Councell of Basil by virtue of the Decree of the same Councell of Constance: considering that that Decree puts a cavesson upon the Popes nose, and subjects him to a Councell, by prescribing a law unto him for the calling of Councels. limiting him the time and forme of convocation, and all with the approbation of the Synod; debarring him of the power of delaying the convocation. Adde hereunto that the Councell of Basil approved that of Constance in all things and to all intents, and in particular those Decrees which are now in question.

Council of Basil approved by Eugenius.

Concil. Const. Sess. 39.

Conc. Basil. Sess. 1.

Conc. Constant. Sess. 39.

Concil. Basil. Sess. 2. 17. 18. & 39.

Concil. Basil. Sess. 1.

Concil. Basil. Sess. 16.

9 We adde that Pope Felix did likewise approve of it in full and expresse termes, setting down the first Decree of that Councell word for word. Which is contained the power of it over the Pope. Yet Bellarmine calls it into question againe, and saith it was not approved in that point. It was (saith hee) lawfully begun, but unlawfully ended. Wee on the contrary affirme, that it was also lawfully continued and ended: this we prove by the approbation of three Popes. To wit of Eugenius the fourth; First, because Cardinall Julian his Legat was present there when those Decrees concerning the power of a Councell over the Pope were made, with full power on the Popes behalfe. Secondly by his Bull extant among the Acts of the Councell, in the sixteenth Session. Behold here the very words. *Wee denounce and decree that the said Generall Councell of Basil was and is lawfully continued ever since the time it first begun: and that it hath had a continuall succession: and that it ought to bee continued and prosecuted about the things aforesaid, and others belonging thereunto, as well as if it had never beene dissolved.* By those words, the things aforesaid, he meanes the reformation of the head and the members, and others specified before. Platina witnesseth as much in his life. *At the beginning of his Popedom (saith he) guiding himselfe by bad counsell, he put all things both divine and humane in confusion. For he stirred up the people of Rome to armes: and authorized the Councell of Basil, which was a cause of infinite evils, by reason of his approving the Decrees of it by his Apostolicall letters.* This testimony cannot bee rejected, as proceeding from an hiltorian passionately affected towards Eugenius.

Nacler gene. 148.

Concil. Basil. Sess. 17. & 18.

Ibid Sess. 16. & 17.

10 Naclerus gives the like testimony. Eugenius (saith he) endeavoured to remove the Councell of Basil to Bonony: but the Emperour and the rest of the Princes and Prelates which were then at Basil, did not onely disobey him; but, which is more, they warned him two or three times to come to Basil with his Cardinals: the proper place, and which was chosen by Pope Martin: otherwise they would proceed against him as a prevaricator and contumacious person. Eugenius being moved with their language, confirmed the Councell of Basil by his letters Apostolicall, giving every man leave to goe thither. When the Legats whom he sent to preside there, were received with great solemnity in the presence of the Emperour Sigismund, who assisted there in his Imperiall robes, and of some other Princes: the foresaid Decrees concerning the Councels authoritie over the Pope were renewed in the next Session following: yea at the very time of their admittance and incorporation they swore to maintaine the said Decrees. And yet there was no coercitive presidence granted unto them, but with submission to the Councell, as appeares by those Decrees. Whereto the Vniversity of Cracovia addes in the forementioned Advice, *That neither the Legats, nor any other on the Popes behalfe, nor he himselfe did complaine of it.*

The Councel
of Basil approv-
ed by Popes.

11 The second Pope is *Felix* the fift, who was lawfully created by the Councell of *Constance* with great solemnitie, and who some yeares afterwards did resigne the Popedom for quietnesse sake. Hee declared at the time of his resignation that he approved the Decree of the Councell of *Constance*, concerning the authoritie of a Councell over the Pope, setting it downe at large in the instrument which was drawne of his resignation: and consequently that of *Basil* which hath the same thing. Wee have quoted the whole passage in the precedent Chapter.

Extat in Actis
Concilii Basil.
post ultimam
Sessionem.

12 The third is *Nicholas* the fift, who in generall termes confirm'd and authorized all and every the Acts of the Councell of *Basil*; and likewise all that was done by *Felix* in that behalfe. *Bellarmino* denies it, restraining that confirmation to that which the Councell had ordained touching Benefices and Ecclesiasticall censures. But hee tooke no notice of that generall clause in the Bull: 'We approve, ratifie, and confirme all and every the Acts, deeds, grants, gifts, indults, dispositions, and ordinances (although they bee greater and weightier, or of another nature than the former; and although they require a speciall declaration, which wee will have to bee accounted as expressed) which have beene made or done as well by those that obeyed that Councell of *Basil* and *Amedeus*, called in his obedience *Felix* the fift, as by those that continued together under the name of a Generall Councell at the Cities of *Basil*, and *Lausanne*. As also when he was admitted and approved Pope by the Councell of *Lausanne*, he had formerly made evidence that hee was thus resolved, to acknowledge the authoritie of the Councell over him, and to approve their Decrees: as it is said in the Act of his confirmation, which passage we urged in the former Chapter.

Bellar. l. 3 de
Ecclesia mili-
tante. cap. 19.

V. principium
Concilii Flo-
rentini.

13 Lastly, *Bellarmino* in stead of a buckler useth the authoritie of such Popes and Councels as have condemned this of *Basil*. Hee puts *Eugenius* in the first place, whose hap it was with all speed to confirme the Decrees which are now in question, and all that was done at the Councell of *Basil* till the sixteenth Session: whose hap it was to send his Legats thither to preside there; which they did, afterwards confirming those same Decrees. With *Eugenius* he joines his Councell of *Ferrara*, saying that it was holden at the same time with that of *Basil*, and that there were a greater number of Bishops there: that the Emperour of *Greece* was there in person, with many other Bishops of that nation; and the Emperour of *Germany's* ambassadour: and that the Pope presided there. I will grant him all this; but withall he must know he hath gained nothing by it in the question which wee have now in hand: Inasmuch as the Councell of *Florence* or *Ferrara* beganne not before the year 1438, at which time, yea a long time before, those Decrees of the Councell of *Basil* which we speake of were made, to wit in the year 1431. And therefore though there might be some doubt about the last Acts of it, yet there can be none about the first.

Nicholau de
Clemangiu.

14 He saith further that all the Church rejected that which the Councell of *Basil* decreed concerning the authority of a Councell over the Pope, inasmuch as notwithstanding *Eugenius* was deposed by that Councell, yet shee acknowledged him still for a true Pope. The truth is, that *Eugenius* was taken for Pope by some few Princes and Nations, after his deposition: but the consequence is false, that therefore the Church rejected those Decrees touching the authority of a Councell over the Pope. For many approved the one who disliked the other, by reason of their particular affection which they bore to *Eugenius*. And indeed King *Charles* the seventh declares in plaine termes, That he held the Councell of *Basil* for a true Councell: that hee never approved that of *Ferrara*: that for the deposition of *Eugenius* and election of *Felix*, he never yet did approve of them, nor doth he now approve them. The Bishop of *Panormo* saith, That

That all the Ambassadors of the Emperour, Kings and Princes, which were at the Councell of Basil before, stayed there, notwithstanding the pretended translation of it to Ferrara: and which is more (saith he) the King of France did expressly forbid any of his subjects to goe to Ferrara to celebrate the holy Oecumenicall Councell upon paine of great penalties, alwaies acknowledging the Generall Councell of Basil. This authour is irreproveable, considering he was sent to the Councell of Basil by Eugenius, to cause that Councell to cease: so farre forth that, in favour of him, he there disputed against his conscience; maintaining some false opinions which he afterwards recanted in his writings.

15 To make it more evident that the pretended rejection of the Councell of Basil concernes onely the deposition of Eugenius, and that it was received for all besides, we will here produce the very words of a protestation made by King Charles the sixth. The King protesteth as a most Christian Prince treading in the footsteps of his predecessors, that hee will obey the Church duly and lawfully assembled. But forasmuch as divers honest and grave personages doubt whether the suspension and deprivation (of Eugenius) and the election (of Felix) made at Basil, be well and canonically performed and celebrated; and that it is questioned, whether that assembly, then when these things were done, did sufficiently represent the Church Catholique, to proceed to such great matters and so important: the King persists and remains in obedience to Eugenius, in which hee is at this present. This protestation was made the second of September 1440, and is printed with an oration of M^r John Gersons. All the * Historians that have writ of this Councell do highly commend the beginning of it, and find no fault with it, no not in that which concernes the reformation of the head and members. But for the end, they say that was shamefull

16 Bellarmine saith further, that the Fathers of the Councell of Basil did submit themselves to Pope Nicholas the fifth; as also Pope Felix, whom they had created, did yeeld to Nicholas the successor of Eugenius. Wee answer, that for the quietnesse sake of the Church, Felix did resigne the Popedome, and yeelded to Nicholas; as the act of that Session hath it: and that Nicholas was created Pope anew by the Councell of Lausanne, which was nothing else but that of Basil: and that this very Pope confirmed the Acts of the Councell of Basil. Now in the Act of his creation there is this amongst other things: We have declared that peace is necessary, yet so as the authority of the Church bee alwayes preserved entire, according to the determination of the holy Councell of Constance. And afterwards; The holy Synod lawfully assembled, representing the Church Catholique, with mature and concordant deliberation, hath chosen the welbeloved sonne of the Church Thomas for supreme Bishop, calling him by the name which hee is now called, Nicholas the fifth. This was done in the yeare 1449. In the same Act it is said that the Kings of England, France, Sicily, and the Dolphin did much further that union.

17 Bellarmine urgeth Leo the tenth against us also, and the Councell of Lateran, which was continued and ended under him, after it was begun by Inlish the second. For the better judging of the validity of this Councell, wee must know the cause of it, as Onuphrius a witness beyond exception doth deliver it. The French being puffed up with the good successe of their affaires, summoned Pope Julius the second to a Councell which should be holden at Pisa the first of September, as it was agreed upon betwixt them and the Emperour, and the Cardinals that were revolted from the Pope: who having laboured to make peace with the King of France Lewes the twelfth, upon condition of recovering Bonony and dismissing this Councell of Pisa: seeing that hee was growne insolent after his victory, and that he obstinately refused to hearken unto him, by the advice of Anthony de Monte, he called the Generall Councell of Lateran to Rome, to defeat the Conventicle of Pisa. And besides he excommunicated the King of France.

The Councell of Basil approved.

Vid. Naucler. generat. 48: Aeneam Sylvium in Conc. Basil. Et Panormi in tract. de Conc. Basil.

* Fasciculus temporum in Imperat. Frederic. 3. sub ann. 1438. Nauclerus generat. 48. Paulus. Langius in Chronic. Citizens sub anno 1431. Bergomensis l. 15. supplementi sub ann. 1438.

Onuphrius Paninus. ad Platina in l. 2.

The occasion
of the Pisan
Councell.

the Florentines who had received the Councell into the City of Pisa, and all those that were assembled thither. He deprived five Cardinals of all their honours and dignities, who had beene the authors of that Councell. He labours to sleight the authority of this Councell, by setting downe the small number of Cardinals, yea by minishing of them contrary to truth. For by the Acts thereof it appears that there were other five besides those whose names hee rehearseth. The author of the Dialogue upon the death of Julius reckons nine. Nine Cardinals (saith Julius, who is the speaker) revolt from me, proclaime a Councell; invite me to come to it, desire me to preside at it: when they cannot obtaine that, they call it themselves, and summon all the world unto it, with the authority of Maximilian as Emperour, and Lewes the twelfth, King of France. But let him make the number as little as he will, it may suffice our other Frenchmen, yea all good Christians, that this reverend Councell of Lateran was not called out of any zeale to religion, but onely to breake that of Pisa, and to hinder the reformation which they would have made of the head and the members. But it is fitting to shew thoroughly the validity of that of Pisa, and the nullity of the Lateran, to the honour of our Kings, and the shame of the Popes.

18 The world had a long time gaped after that so much desired reformation of the Head and the members: divers Councells had bin holden for that end, but still in vaine, by reason of the Popes craftinesse. I will say nothing without good warrant: that is a thing must bee looked to nowadayes. Give care therefore to the instructions which the Cardinals that called the Councell of Pisa gave to Joannes Baptista de Theodorico, and Francis de Treio whom they sent to Rome; Having not had any Generall Councells (say they) for so many years, and however some few were assembled, as wee finde that there have beene five within these hundred years last past; viz. that of Pisa, Constance, Siena, Basil, and Florence: yet for all that the Church hath not beene reform'd effectually, by reason of those impediments and quarrels which have intervened: and the Lords field in the meane time is overgrowne with briars and thornes, that must of necessity bee purged by a Councell. Vpon this occasion also it was religiously ordain'd by the Councells of Constance and Basil, that Synods should bee held every ten yeeres.

19 But this being neglected by the Popes after the Councells of Lausanne and Florence, at last the See comming to be void in the yeare 1503, the Cardinals before they went to a new election, bound themselves by an oath, that hee amongst them upon whom the election should light, should bee bound to call a Councell within two years after: and they drew an instrument hereof, whose inscription runnes thus; *The things underwritten are the publique chapters ordained betwixt the supreme Bishop that shall bee, and the right reverend Cardinals unanimously, and with common consent for the defence of the libertie of the faith, and the reformation of the Church in the Head and members.* Then follows the text; *We all and every one of the Cardinals of the holy Church of Rome here underwritten, do swear and vow to God Almighty, to the holy Apostles Peter and Paul, and promise to all the saints of holy Church, that if any of us be chosen Pope, presently after the solemnity of his election, he shall sweare and vow purely, and in all simplicity, and good truth, to keep and cause to be effectually fulfilled and kept, all and singular the Chapters here underwritten, and to require all notaries to send out publique Bulls of the same.*

20 First of all hee shall swear and promise, that, in case of necessity of assisting faithfull Christians, &c. There are yet some more Chapters, and then it is said; *Item, forasmuch as it is very important to call a Generall Councell with all speed, for the peace of Christians, the reformation of the Church, the abolishing of many exactions, as also for an expedition against the infidels: hee shall promise, swear, and vow to call it within two yeeres after his creation, and to begin it effectually*

factually in some place of freedome and safety; which shall bee chosen by him and two parts of the right reverend Lord Cardinals, by [†] balots.

Pope Julius his
oath, and per-
jury.

*The oath and vow made by the Cardinals concerning
the things aforesaid.*

† Little stones
which Elect-
ours use in gi-
ving of voices.

21 Wee all and every one of us the Cardinals of the holy Roman Church assembled together at Rome in the Palace Apostolique, for the election of a future Pope of Rome, confirming the Chapters aforesaid, agreed upon amongst us with consent and concord, for defence of the Catholique faith, Ecclesiasticall liberty, reformation of the Church in the Head and members, and for the band of charity and peace betwixt the supreme Bishop and the Cardinals of the Church of Rome his brethren; do vow to God, to the glorious Virgin Mary his mother, to the blessed Apostles, and to all the Court of heaven, swearing upon the holy Gospels corporally touched, one to another, and also to the publique notaries here underwritten, as legall persons covenanting in the name of the holy mother Church, and of our sacred Colledge, and of all others that have any interest therein; that whosoever amongst us shall bee chosen Pope, hee shall fulfill and keep all and singular the things contained in the said Chapters, without all coven, fraud, and treachery, and without using any exception: that hee shall not countermmand any of them directly or indirectly, openly or privatly: that after his election, or before the publication of it, hee shall confirme all the things aforesaid, and shall approve them in authentique forme, and shall make an absolute promise of them anew; yea and that in manner of a contract, &c. There are yet some other clauses to restraine him further, which need not be rehearsed: they being all bound and tyed by this vow and solemne oath, Julius the second was chosen Pope, being one of them that had sworne so religiously; who to satisfie what was promised, made his Papall oath in this wise.

*The subscription, vow, and oath of Pope Julius the second
concerning the things aforesaid.*

22 I Julius the second, Pope, being chosen to the dignity of supreme Bishop, doe promise, swear, and make a vow, to fulfill and keepe all the things aforesaid, and every of them, wholly and entirely, purely, simply, in good truth, readily and effectually, upon paine of perjury, and anathema; from which I will neither absolve my selfe, nor procure my selfe to bee absolved by any other. So helpe me God and the holy Gospels. All this was done in the year 1503. Now Julius so little regarded those two oathes so solemnly sworne, that he let not onely two years go, but even six or seven over and above, without ever taking any great thought of accomplishing his vow. Whereupon the Emperour Maximilian, King Lewes the twelfth, with a number of Cardinals and divers other persons being scandalized, especially because Julius, more strongly representing an Emperour than a Pope, did imploy himselfe in wageing warre, they resolved to take order for it; and to that end those Cardinals, upon request made unto them by those two Princes, called the General Councel of Pisa, in default of the Pope, the year 1511. Which the Pope perceiving hee called his at Rome, to quash the other, as Onuphrius told us. So that the one is called upon a lawfull cause, the other to a very bad end.

23 This is not all. The Councell of Pisa submitted so farre to Pope Julius, that when they saw he was determined to keepe a Councell, they desired him

*Julius the 2.^d
his demanour.*

to have it in some free citie, and of safe accesse ; which if so, then they offered to come unto it. For you must take notice by the way, that this was another *Julius Cesar*, which made his armour ring all *Italy* over, and that even against the *Gauls* aswell as the former whose name hee bore : Yea they came so far as to entreat him to make choice of any one of those ten free cities which they should nominate in divers Provinces : or himselfe to nominate as many in *Italy*, which were not vnder his temporall jurisdiction, nor under the *Venetians*, and they would agree of one of them ; *To the end (say they) that it may be evident to every one that the holy Councel proceeds in all things with bounty, humility, and peace ; and that they do not deny your due reverence, they have thought good to send their Oratours unto you with expresse charge and speciall power, that the cities here mentioned, be presented to your Holynesse in the name of the Synod, which are most of them Imperiall cities : to wit, in Italy, Vercel, Trian, Casal of Montferrat, and Verona : Out of Italy, Geneva, Constance, Besançon, Mentz, Avignon, and Lyons, to chuse which of them you please : after which choice the Councel will remove thither, &c. But if your Holynesse thinke it not fit to accept of any of these places, for the greater evidence of the good meaning of the Synod, and to make their reverence towards the Pope more plainly appeare, it is left to his power to nominate as many Imperiall cities in Italy, so they bee not within his temporall dominions nor the Venetian jurisdiction, &c.*

24 The Oratours of the Synod having sent a messenger from *Florence* to *Rome*, to get a safe conduct of the Pope, they had no list to goe any further by reason of the ill entreating, the injuries and beatings done to him whom they sent ; who was compelled for feare of prison or death, to returne without doing any thing: of which there was an Act and instrument drawne, which is extant amongst those of the same Councell. The Synod being advertised hereof, did resolve to expect yet thirty dayes, to see whether the Pope would alter his resolution : whereof intimation might be made unto him by placards set up in places next adjoyning, because free accesse thither could not be had. All this is related in the very Acts. Wee may doe better to set downe the very words of them. *But forasmuch as the said Oratours, as soone as they were arrived at Florence, sent a faithfull and loyall messenger to the Court of Rome, to procure a safe conduct from the Pope. Which they not only did not obtaine ; but, which is worse, the messenger was so horribly threatned, that hee was constrained to flie for feare of prison or death, and to returne againe to the said Oratours, (as appears more at large by the instrument made thereupon) the holy Synod granteth & appointeth another terme of thirty dayes, &c. And forasmuch as it is notorious that there is no free accesse to the Pope, the holy Synod ordaines that this decree of prefixing this terme bee published and intimated to his Holynesse, by billes set up (if it may be done) in the neighbouring places and next adjoyning ; whereby probably it may come to the knowledge of the Pope, or at least to the Cities of Milan or Florence.*

*Onuphrim in
Julio 2.*

25 The Pope in stead of accepting what was fairely offered him, on the contrary commanded all those of that Synod to depart from thence, upon paine of loosing their offices and benefices, say the same Acts. Yea he and his Councell went so farre as to excommunicate King *Lewes* the twelfth, and the Cardinals that were at *Pisa*, (as saith *Onuphrim*) putting the Realme of *France* in an interdict, and stirring up the Kings of *Spaine* and *England* against our Prince, the one whereof brought over his armies into *France*, and the other into the Kingdome of *Navarre*, (as the same author hath it) a great part whereof he conquered, and yet holds by that only title. It is further to bee observed, in behalfe of our *France*, that there were a great number of Bishops and other Prelats, and Ecclesiasticall persons of this Kingdome present there at *Pisa*,

Pisa, and besides the deputies of the Vniversities of *Paris*, *Tholouse*, and *Poitiers*, as it is recorded in the same Acts. So that whatsoever was there done by Pope *Julius*; doth principally redound to the discredit of this Nation.

26 But that it may more clearly appeare what manner of man this *Julius* was, we will here set downe what the *Legend of Flamens* saith of him, an ancient book and not to be excepted against in this case. 'O Pope *Julius* (saith it) who wast surely the abomination of all desolation, (as a moderne authour testifies) durst thou falsifie thy faith, desert *St. Peters* chaire, and usurpe the title, not only of *Julius Cesar*, (for he never falsified his faith, nor ever went against his loyalty, as thou) but of *Julian* the Apostat, whose name thou hast borne for a long time, (*Conueniunt rebus nomina*) and unfold and display the Apostolicall keyes, and the three crownes in the field? sleep in the watch-tower? God knowes how bravely hee made the crosses, crosiers, and mitres to clash and flourish in the campe. The diuell himselfe durst not haue come there. For benedictions and plenary indulgences *a pœna & culpa* marched so thicke as nothing more. And to prove this true, in the moneth of August last past, when I complained to one of the late Pope *Leo's* Chamberlaines, of the inconstancy, or rather disloyalty and treason of Pope *Leo* the tenth, who againt his faith and promise so solemnly sworne at the Parliament of *Boloyne* to the most Christian King *Francis* of *France*, had declared himselfe the Kings enemy, wondring with my self at the litle fidelity and loyalty of the moderne Popes; more especially of the two last, *Julius* the *Genoais*, and *Leo* the *Florentine*, considering that in former times the Popes would haue chosen to suffer death rather than breake their promise; he swore and protested unto me, that when *Ferdinand* King of *Aragon*, came out of his countrey of *Spaine*, into the City of *Savoy*, the same Pope *Julius* had sent him an absolution from the treason which was then hatched, and plotted to cozen King *Lewes* of *France*. He speaks more of this point than I was aware of: for he joynes *Leo* the tenth with *Julius*. And if I were not afraid to be censured that I went about to expose the personall vices of this *Leo*, contrary to my protestation, I could here represent him all loaden with vices and crimes. It shall suffice me to referre the reader to those that haue spoken of his life, and amongst others to *Langius* a *German Monke*.

Paulus Langius
in Chron. Citi-
sens. sub ann.
1513.

27 See here then the two authors of this Councell of *Lateran*, which is now opposed against the first and second of *Pisa*, those of *Constance*, *Basil*, *Siena*, and *Lausanne*, and against our Pragmaticke Sanction. The former called it, and the latter continued it. The former triumphs victoriously over the Councell of *Pisa*; and the latter over the Pragmaticke Sanction; and together with it over the Councells of *Basil* and *Constance*, if wee may beleeve them in this point, and let them alone here. Wee may then affirme that this Councell of *Pisa* was lawfully called, and upon iust and necessary causes: and on the other side that this of *Lateran* ought to be reputed schismaticall and illegitimate, being it was assembled by a Pope doubly perjured and contumacious, onely to serve his owne passion, to decline a reformation, and live in disorder: to make a mocke of that laudable designe of the Princes and Clergy, who dreamed of the good of Christendome. But the French are unworthy the honour of their nation, if they do not for ever detest and abhorre this pretended Councell, which did so much mischief and trouble to that great Prince *Lewes* the twelfth: which did anathematize him, and interdict his kingdome: which raised up armies on all sides to assassinate him: which made the fields blush with blood: which caused the townes and kingdomes that did him homage to be invaded: which pronounced a nullity and flaw against that which was ordained and decreed at the Councell of *Pisa* by the most famous Prelates and Vniversities of this Realme.

Council of
Lateran but a
Conventicle.

Sessio 3. Concil.
Lateran. ultim.
V quoque Sef-
fion. 2.

28 *Signanter dico*, which did interdict both the King and Kingdome: for it is not *Julius* alone but all his Councell. In the third Session whereof was that thundering Bull of his made, which remains there yet all entire. Out of which I have collected this piece. 'With the approbation of the sacred Councell we condemne, reject, detest, and declare to be void, invalid, and of no effect, all the acts, facts, gels and writings published and ordained by the children of damnation, *Bernardin Caravaial*, *William Briçonnet*, *Renald de Pria*, and *Frederic de Saint Severin*, heretofore Cardinals, together with their favourers, abettours, and complices, Schismatiques and Heretiques: who endeavour to breake the union of the holy mother Church by the Conventicles of *Pisa*, *Milan*, and *Lyons*. We doe likewise, with approbation of the same Councell which hath full cognizance thereof, renew our letters, whereby wee have interdicted the Kingdome of *France*, because of the approving, favours, assistance, and adherence of the said King of *France*, and other Prelates, Officers, Nobles, and Barons of that Realme, unto those schismatiques and heretiques for the keeping and continuing of that damned and reprobate Conventicle of *Pisa*. And we submit unto this interdict, the said Kingdome, with all the townes, territories, cities, and other places whatsoever.

Sess. 8. & 9.
Conc. Lateran.

Sess. 11. Conc.
Lateran;

29 I am not ignorant that after this Pope was dead, the same King *Leo*, who had approved the Councell of *Pisa* by his letters patents of the 16. of June 1512, verified in Parliament, came afterwards to dissolve and renounce it, that he might joyne with that of *Lateran* which had changed the master; and that because of the good affection which *Leo* the tenth, the successor of *Julius* shewed towards him. I know likewise that the Concordat betwixt the same *Leo* and King *Francis*, was afterwards made, which is recorded in the eleventh Session of that Councell; and that afterwards in the same Session the abrogation of the Pragmatique Sanction and the Councell of *Basil*, for as much as concerns the power of a Councell over the Pope, was concluded. But I answer that this Councell of *Lateran* was then but a meere Conventicle, considering it had in all but sixteene Cardinals and what Patriarchs, what the Popes assistants or Orators but eleven, with fifty three Bishops, one Abbat and foure Generals. Of which it was said by the Vniversity of *Paris* in the Act of Appeale put up by them, *That it was not assembled in the name of the holy Ghost*. This we urge of purpose against *Bellarmino*, who holds that the Councell of *Constance* was not Oecumenicall, for what concerns the Decrees of the fourth and fifth Sessions, though there were to the number of two hundred Fathers, because some schismaticall Bishops were absent. Besides, it is certaine that the abrogation of the Pragmatique and the Councell of *Basil*, as touching the power of Councells over the Pope, was never approved in *France* no more than in other places: and this was it was disputed at the time of the Concordat, and which they would never yeeld to.

Sess. 11. Conc.
Lateran,

30 For prooffe hereof there needs no more but the reading of the opinions of certaine Bishops in that Council, which are set downe in the eleventh Session then when that point was canvassed. After the reading thereof (say the Acts) their fatherhoods were asked whether this Concordat pleased them. They said all plainly that it pleased them, except the reverend Father *Dominic* Bishop of *Lucerin*, who said the things contained in the Bull pleased him, alwaies provided that the French accepted the other Bull containing the repeale of the Pragmatique Sanction. Two other Bishops were of the same opinion: but all the rest went along so as that our Pragmatique and the Councell of *Basil* stand good still. Besides, it was abrogated for as much as concerned the contumacy of Prelates, Chapiters, Parliaments, Laymen, & other French which stood upon that pragmatique, who had been cited divers times in vain.

Loe

Loe here now a strange manner of proceeding, to pronounce a sentence of condemnation after a solemne agreement made, to compasse that meanes what was denied them by the compact. And as for the abrogation of it made afterwards by the same Session, it is repugnant to this agreement, which being made onely about certaine chapters of the Pragmatique Sanction, the rest that were never touched upon remaine still in their full strength.

31 Besides, the Vniversitie of *Paris* put in an Appeale to a future Councell about the abrogation both of the Pragmatique Sanction, and of the Councell of *Basil*; testifying by that very Act that they firmly beleeeve that a Councell is above the Pope: and in very deed there is none but knowes that this Vniversitie holds the contrary opinion for hereticall unto this very day; and *Theses* are ordinarily proposed and disputed against it; one whereof my selfe have seene, and have it in my custody, conceived in these termes, *Concilium supra summum Pontificem eminet maxime. A Councell is eminently farre above the Pope.*

*Theses Fratris
Helii Beaurvill
Minoris Salina-
rensis sub pre-
sidio Emundi
Richer. Doct.
Theol. Sorbon.
anno 1599. die
11. mensis Martii.*

CHAP. VIII.

A refutation of those reasons which Pope Leo with his Councell of Lateran urgeth to prove his authority over Councells.



It is not enough to have laid open the lightnesse of *Belmines* reasons; wee must answer those of the *Lateran* Councell. *Leo* then and his Conventicle after they have set downe this rule, That the Pope is above a Councell, and that by virtue of this power hee may call, change, and dissolve it at his pleasure, he underprops it with divers reasons: The first is this; 'That the Councell of *Alexandria* where *Athanasius* was

*Concil Lateran.
Session. 10.*

'present, writ to *Felix* Pope of *Rome*, how the Synod of *Nice* had decreed
'that Councells ought not to bee kept without the authority of the Pope of
'*Rome*.

V. Epist. Aegyptiorum pontif. ad Felicem Papam.

2 This authority is taken out of the Epistle of the *Egyptian* Bishops written to Pope *Felix*, which is suspected for supposititious by all those that have any cleare insight, and which know how they can tell to forge things at *Rome*, where in stead of al other miracles they have kept this of making dead mē speak. But granting it be genuine, our answer is, that there can nothing be concluded from thence, but onely that Generall Councells cannot bee valid, unlesse the Pope of *Rome* be summon'd thither; seeing hee hath as much to doe in them as other Patriarchs: which is particularly mention'd of him rather than others, because of his remotenesse; by reason that generally Councells were most commonly holden in the East. For this very reason he had power to chuse for his ordinary Legats the Bishops of *Athens*, *Corinth*, *Crete*, and others of those Countries, notwithstanding that they were beyond his bounds, and not subject unto him, as a Patriarch of *Antioch* hath it. But we have spoke sufficiently of this in another place.

Theodorus Balsam. in praefat. ad 6. Synod. in Trullo.

3 The next reason is, because Pope *Leo* removed the second Synod of *Ephesus* to the City of *Chalcedon*. Wee read indeed that Pope *Leo* complained of

Popes removed
Councells but
with their con-
sent.

a Leo Epist. 23.

b Leo Epist. 24.

vide etiam E-

pistolae Lici-

ni & Placi-

de ad Theodosi-

um Epist. Theo-

dosi ad Valen-

tinian. in pre-

ambulis epist. ad

Synodum Chal-

cedon.

c Epist. Valenti-

nian. & Mar-

tiani

Et altera ejus-

dem Martiani

ad Leonem. &

altera eorun-

dem Imp. ad

Episcopos in

præamb. epist.

d. Leo epist. 41.

e Epist. Imp.

Valent. &

Marcian. ad

Concil. Nicen.

in præamb.

Epist.

Concil. Const.

Session. 39.

Concil. Con-
stant, Sess. 44.

Extat hæc Bul-
la in 1. Sessione
Concil. Basil.

Concil. Basil,
Session. 1.

of the second Synod of *Ephesus*: that hee entreated the Emperour *Theodosius* to call another in *Italy*, to have an account of the former: that hee imployed *Valentinian*, the Emperesses, yea all the world to obtaine that request of *Theodosius*, who plaid the deafe man, and would not hearken to it: that after his death the Councell was called by *Valentinian* and *Martian*, not in *Italy*, as he desired, but at *Nice* in *Bithynia*: that the same *Leo* having intreated that it might be deferred, could not obtaine so much at those Emperours hands: that they afterwards translated that Councell from *Nice* to *Chalcedon*. But how should we beleeve another man that *Leo* translated it from *Ephesus* to *Chalcedon*, when he himself saith the contrary? Who could better know than himselfe? What can be more authentique than the very letters of the Emperours that were the authors of the translation, which are joyned with the Acts of the Councells? But grant that hee transferr'd the Councell from one place to another: it is a very weake consequence to say, therefore he is above it. The Emperours will have as much authority as he, who transferr'd them from one place to another; yea and made them come all in corps after them from one countrey to another, to render a reason for what they had done, as wee have proved elsewhere.

4 Let us come to the third reason. Pope *Martin* the fift gave his presidents at the Councell of *Siena* power to remove the Councell, without any mention made of the consent of that Councell. If *Leo* and his Councell will make us beleeve that, they must abolish the memory of all those other precedent Councells. It was decreed in the thirty ninth Session of the Councell of *Constance*, That Councells should bee kept from ten yeares to ten yeares, in such places as should be nominated by the Pope within a moneth before the end of every Council, with the approbation and consent of the Council, or in case of his default by the Council it self. It is further said, that the place being once appointed, it shal not be altered by the Pope without apparent necessity; in which case he may do it with the consent of the Cardinals, or two parts of them. According to this Decree, this Pope *Martin*, of whom wee speak before the breaking up of the Councell, did nominate the City of *Padua* for the holding of the next Councell that should be called. Which he did with the consent and approbation of the said Councell, as it is affirmed in expresse termes. When the question was about going to keepe that Council, the same *Martin* sent forth a Bull containing the creation of his Presidents to assist there; declared the nomination which he had made with the consent and approbation of the Councell; and gave them power upon lawfull cause, to translate it from one city to another, to prorogue it, dissolve it, preside at it, make Decrees, and other such like things. But with this clause, which relates to all the things aforesaid, *Eodem approbante Concilio, with the approbation of the same Councell*.

5 But this is not all yet. When the Councell was assembled at *Siena*, he was earnest with the Fathers thereof to change the place: they consulted upon it, and resolved to goe to *Basil*: So say the Acts, The Presidents convoked the Deputies for all the nations of the present Councell of *Siena*, about chusing the place for the future Councell. And anon after: They did nominate and chuse the City of *Basil* unanimously and with one common consent. And yet after, it is said, That the Presidents assented to the nomination which was made by the Deputies. Now how shall we beleeve this alteration was made, or that *Martin* did attempt to doe it without the consent of the Councell? Hee, I say, who approved the Decrees of it, which is more, as it hath beene demonstrated in another place.

6 The fourth reason is, That divers Synods have given a great deale of reverence to Popes, and have obeyed their injunctions and commands with all humility. There was no necessity of saying so much for fear it should be denied.

For

For reverence sake a great deal of honour was ever done to the See of Rome: it was acknowledged to bee the first in degree and dignity, but not in power and authority. Besides, the Pope was put to wrestle for honour with the Patriarch of *Constantinople*, and the Archbishop of *Ravenna*, by reason of the translation, the one of the Imperiall seat, the other of the exarchat into their Cities, pretended that they had got the prerogative of honour. The other Patriarches had scarce any lesse than he; sometimes more was done unto them, and sometimes lesse. The Popes for their part ever made good use of it: they were never ashamed to proclaime their owne praises, and they lost nothing for want of challenging. They have often turned the faire proffers which were made unto them into strict obligations; and have monopoliz'd to themselves what was common to all. But to doe them a courtesie, let us grant them some speciall favour and prerogative. From all these honours and respects there can bee nothing concluded: as for authority and power, we have no more to doe, but set up our staffe there.

Popes not obeyed by Councils.

7 The last is more pressing, which speaks of the humble obedience which Generall Councils have done unto them. Let us therefore examine those examples which are urged upon us. The first Council of *Ephesus* granted it to Pope *Celestine* in obeying his Decrees. What a ly is this! Pope *Celestine* in a Synod which he held at *Rome* of the Westernne Bishops, condemned the opinion of *Nestorius* Bishop of *Constantinople*: gave notice of the determination of his Synod to *Cyrill* Patriarch of *Alexandria*: and before hee speake of the Generall Council of *Ephesus*, hee entreats the same *Cyrill* to cause that to bee put in execution which had bene defin'd at *Rome*: from whence an argument for his presidence is drawne, as much to the purpose as the rest. Being advertised of the Council of *Ephesus*, hee sends his Legats thither; of a truth they speake some magnificent things tending to the Popes advancement, but of which they can make no great booty; saving only that the Council was glad that the definition of the Westernne Bishops was found conformable to that which had bene made by the Easternne. And to this intent *The Synod* decreed, *Considering the Legats of the See of Rome have spoken such things as are conformable to what had bene formerly determin'd, they would subscribe to their Acts, that they might continue constant to their promises.* And presently they sent letters to the Emperours, *Theodosius* and *Valentinian*, wherein they say, *That God hath touched the hearts of the Western Bishops with a godly Zeal: for although the length of the journey did not permit all that multitude of Bishops to come to Ephesus, notwithstanding being all met together in one place, the most holy and most devout Celestine Bishop of Rome, being present and presiding amongst them, they have determined in point of faith conformably to what wee had defined; and have declared those that are of a contrary opinion unworthy of Priesthood, and of all Ecclesiasticall honours and degrees. And Celestine the most holy Bishop of great Rome had signified by his letters this opinion of his, and of those that were with him, before ever there was any mention of holding a Council at Ephesus: and had sent to Cyrill the most holy Bishop of Alexandria, and well beloved in the Lord, to prosecute and performe what had been concluded upon at the Synod of Rome, substituting him in his place. And not content with that, he hath now repeated the same things againe by other letters directed to this Synod assembled here at Ephesus by your command; which he hath sent by his Legats, which doe represent at this present his person in the Council.* All this they informe the Emperours of, to let them see that the condemnation of *Nestorius* was concluded by the common consent of the Church Universal.

V cap. 16. To. 2.
A. Conc.
Ephes.
Vid c. 17. ibid.

8 Now if they call this obeying the Popes Decree, we may say as well that the Pope obeyed the Decrees of the Council of *Alexandria* holden by *Cyril*, in as much as when he had notice of them from *Cyril*, hee wholly conform'd

Conc. Ephes.
To. 1. cap. 14.
et 16.

Councils not
valid because
confirm'd by
Popes.

Synod. Chalced.
in allocut. ad
Marcian.
Ib. AB. 16.
Ib. AB. 23.

V. Fragmenta
D. Hilarii.

himselfe unto them. The Councell of *Chalcedon* did strictly examine the confession of faith which was sent them by *Celestine*; yea and mended something which did not run well; gave leave to any that would to contradict it; cast him in the case of honour, which he tooke in great disgust. In that answer which was made unto him this piece is indeed to his advantage, *That hee was to the Councel as the Head to the members in the person of his Legats*. But this is in regard they were as a head to the rest of the Clergy, as having the first degree of honour, yet without presiding there; as wee have exprest at large in another Chapter. As for the humble obedience in question, they must seeke it elsewhere: for there is no more spoke of it here than is to Pope *Agatho*, *Hadrian* and *Nicholas* in the sixt and eight Councils.

9 The Council that yeelded the most to the Popes was the eight Generall, holden at *Constantinople*, which granted *Hadrian's* Legats the Presidence, (which the rest never did) and which decreed with a great deale of respect concerning the accusations of Popes. But it never came so farre as to doe him humble obeysance, or to acknowledge him for its superiour, as is pretended.

10 The fifth reason is the declaration which the Bishops of *Italy* made to the Bishops of *Illyrium* touching the Councell of *Ariminum*, which they said was invalid because it wanted the Pope of *Romes* content: and Pope *Leo's* declaration to the Bishops of *Sicily*, wherein he pretends the very same reason. Wee have an epistle of those Bishops extant at this day, by the meanes of that learned *French* man, to whom all Chriltendome is so much beholding, which discovers unto us the Popes cunning to manage their designs. They condemne indeed the Councell of *Ariminum*: But why? that they tell us, 'We do justly reject the Decrees and determinations of the Councell of *Ariminum*, with the consent of all the Provinces, as having beene corrupted by the prevarication of some body. Wee send you the copy hereof, to the intent that there may bee no difference neither in retaining the same faith, nor in rejecting the Councell of *Ariminum*. As for Pope *Leo* wee make no question but hee might have done that which is put upon him, although the letter which hee writ to the Bishops of *Sicily* make no mention of it. For hee onely tels them that they must send every yeere three Bishops to *Rome*, to assist at the Synod which shall bee holden there. Which cannot bee referred to a Generall Councell. And for the rest, no body denyes but the Pope hath the same power in respect of the Churches which depend upon him; which the other Patriarches and Metropolitans have,

11 But let us grant what they say of him. There is nothing got by it; it is a domestique testimony, and of one that is himselfe a party. Hee that hath at other times disputed the presidence of Councils, is now in question himselfe in his owne cause and his successours. Besides, wee have spoken sufficiently elsewhere of the approbations and subscriptions of the Acts of Councils which were desired at the Popes hands; that they desired as much of other Bishops to maintaine the union and intelligence of the Church, from whence no advantage will accrue to the Pope: and yet for all the Councell of *Latbran* makes this a strong ground: as neither from that which the Councell of *Constance* did, which our *Lateran* Fathers have put in the list too, thereby tacitly approving it. Of whom I demand lastly, Why then do they not observe its decrees touching the power of a Councell, seeing they can finde no flaw in them? They take at nothing but the Councell of *Basil*, and this poore Pragmatique; and that by reason of the sawciness of them, as they intimate unto us by those words, 'Which was likewise observed by the Fathers of *Constance*: which laudable custome if those of *Bourges* and *Basil* had observed, without doubt we should never have all this ado. This for the point of approbation which Councils

Councils required at the hands of Popes. Let us then leave our *Bourgeois* and *Basilians* there, and confesse they were to blame to exempt the Pope from trouble. But what had the Council of *Constance* to doe with it, that the Decrees thereof must be abrogated for this? Besides, is it not a fine argument, to conclude that the Pope is above a Council, because that of *Constance* demanded the approbation of their Decrees at his hands, whereas by the same Decrees they make the Pope inferiour?

Of the Prag-
matique San-
ction.

12 See here all their reasons, saving that they urge the abrogation of our Pragmatique made by *Lewes* the eleventh, and consequently of the Councell of *Basil*. To which wee cannot answer but to the shame of *Pius* the second, who having wrought wonders against the Popes at the Councell of *Basil*, having even writ the history of all that passed there with exceeding approbation thereof, when hee came to be Pope urged King *Lewes* with the performance of a promise which he had extorted from him when hee was Dolphin, of repealing that pragmatique as soone as he should come to the Crowne; and he never gave over solliciting of him by letters and Legats till hee had his desire. So then the pragmatique was repeal'd by this Prince with the advice of a few: but was set up againe presently after with the consent of many, having perceived the prejudice done to *France* by him. We must confirme all this by good witnesses.

Extat Ludov-
ci 12. Con-
stitution in
Sessione 4. Con-
cil Lateran.

13 *M. John le Maire* relates many things about this particular; it is fit we heare him. Forasmuch (saith he) as the Popes are not content that the pragmatique Sanction be in force, although it bee founded upon the holy Canons, and authorized by the Councell of *Basil*: But it derogates from the insatiable covetousnesse of the Court of Rome, and therefore they say it is a pure heresie. Pope *Pius* the second imagined by all meanes to perswade and put it in King *Lewes* his head to abrogate and put all downe: under colour, as the Pope pretended, that the said *Lewes* when he was then but Dolphin had promised the Pope, that when hee came to the crowne he would abolish the said Pragmatique. And to bring this about, presently after the Kings coronation Pope *Pius* sent the Cardinall Monke *D'Arras* for his Legat into France. The Legat being arrived in France put the King in minde of fulfilling his promise: and the King being willing to condescend to the Popes desire, at least making a show of so doing, dispatched his letters patents in ample manner, directing them to the Parliament of Paris, and sent Cardinall *Balue* thither to have the Decree of the Lords of the Parliament thereupon. But when the case was discussed, the auditory of the Court being present, the Kings Atturney, called *Iohn de Rome*, a sharpe man, of great eloquence and courage, straight opposed himselfe against it; boldly affirming and maintaining that a law so holy, so redoubtable, and of so great benefit to the kingdome, ought not to be repealed. In like manner the University of Paris joyned with the Kings Atturney, and appealed from all the Popes attempts to a future Councell. At which things Cardinall *Balue*, a wary, malicious, and stout man, was much offended and used big words: but all this notwithstanding hee returned to the King againe without doing any thing. And so our Pragmatique continues still in force, save that the King did afterwards bestirre himselfe to cause his letters patents to be verified.

Jean le Maire
en la 2 partie
de la differ. des
Schismes.

Vid. etiam G1.
guin. lib. 10.
hist Franc.

14 Now that he made this repeale without counsell, we prove from Pope *Pius*, out of his letters gratulatory which he sent to him thereupon. While we commend that (saith hee) that you have determined to disannull this Pragmatique without the assembly or advice of many, as the same Bishop hath given us to understand. Certes you are wise, and you bewray a great King, to governe and not to be governed. See here the good counsell of the Pope, but which did not thrive very well with him: for this default made all be cancell'd. *Ad alium consiliarium consiliorum passim.* Let us heare yet his other

Pius 2. Epist.
401. ad Ludov-
icum 12. 1503

*Pius the 2. his
inconstancy.*

*Aeneas Sylvius
l. 1. de gestis
Conc. Basil.*

Idem lib. 2.

*Quod Aeneas
laudavit Pius
damnavit.*

*Conc. Chalced.
Actio. 1.*

elogies concerning that repeale. *You were reserved till these times to restore her liberty to the Church of Rome, by abolishing errors, that is, the Pragmaticque. And in another passage. You doe what is meet, knowing that the Pragmaticque is godlesse, you have resolved to abolish it out of your Kingdome. The rest may be seene in the authour himselfe.*

15 But let us here observe the inconstancy of this *Pius*, who saith in his Commentaries of the Councell of *Basil*, that every one held the conclusion of the Bishop of *Arles* (who presided there) in admiration, concerning the authority upon a Councell against the Pope: *as undertaken by the speciall favour of the Holy Ghost*, saith he. In another place hee extols the integrity and devotion of those Fathers with exclamation, *O most sincere fraternity! O the true Senat of all the world! What a deale of beauty, and sweetnesse, and devotion was there! to heare the Bishops celebrating in one place; the Abbats at their prayers in another; the Doctours reading divine Histories in a third: to see one writing by candle-light, another meditating upon some weighty matter!* Now our Pragmaticque is nothing else but the marrow and substance of the Councell of *Basil*, yea but the very Decrees of it. Now we demand of him, *Cur tam variè?* as our Practitioners speak. Hee will give us King *Francis* his answer, *It is not for a King of France to revenge an injury done to a Duke of Orleans: But rather it is for a Pope to defend the Popes cause.* That when he writ that (as well as that which hee writ against the Donation of *Constantine*) he was but one of the Councell of *Basil*: but this he pronounceth as Pope, that is, as one who is now better advised; having all wisdom both divine and humane in his pantofle, and all law in his budget.

16 I will not now spend time upon answering the arguments which *Bellarmino* brings out of holy Scripture, to make the Pope above a Councell. As *Thou art Peter; Feed my sheep. Ergo* the Pope is above a Councell. *Item*, The Pope is the Head, the Steward, the Shepherd, the husband or spouse of the Church, Therefore he is above a Councell. Part of which have been confuted by the Councell of *Basil*, in the *Acts* collected by *Aeneas Sylvius*; and part by many other Doctours which writ since. Besides the solution of them may be gathered out of those places which wee have here above transcribed out of the opinions of the Universities of *Germany* and *Poland*.

17 We have also made answer alreadie to that which is urged of the Councells of *Sinnesse* and *Rome*: *That the Premier See, that is, the Pope, cannot be judged by any man*: and we have shewed that this is meant of particular persons, or of Provinciaall Councells at most. Besides that, wee have divers examples of their judgements, in which this maxime was never determined: Adde further, that we have made it evident by an infinite number of examples; that divers Popes have beene judged even for other crimes than heresie.

18 But the most pressing argument of all is that which hee collects out of the letters of certaine Easterne Bishops writ to Pope *Leo* the first, and the Councell of *Chalcedon* joyntlie, and that during the celebration of that Councell; in the inscription whereof they put the Popes name before the Councells; and yet the Fathers there assembled, to whom these letters were presented, never complained of it, saith *Bellarmino*: Hee had great dearth of good arguments when he lies to such as these. By the very same reason the Archbishop of *Constantinople* must be above the Councell, whose name is put before the name of the Councell in the letters of *Eusebius* Bishop of *Dorylæum*: *To the most holy and most blessed Archbishop Flavian, (saith hee) and to the holy Councell.* See here the Patriarch of *Constantinople* as good as the Pope; and by consequent Pope *Leo*, who pleaded the contrary in that very Councell, hath lost his right by *Bellarmines* judgement. If he should have said so much in his time it is a hazard hee had never bene Cardinal: so highly was the Pope displeased at the

the judgement of this Councell. Another Bishop puts the names of the Pope and of the Patriarches of *Constantinople* and *Antioch* all before the name of the Councell in a letter of his. The Councell of *Chalcedon* writing to Pope *Leo*, puts it selfe before him; and on the contrary writing to the Emperours *Valentinian* and *Marcian* puts it self after them: all in the same Session. *Bellarmino* knowes also very well that the Emperour *Justinian* writing to Pope *John*, puts his name of Emperour before that of Pope: and that *John* also puts it before his in his answer. It is true, the glosse spoiles all, which saith, This would not be so now adayes. Wee know Pope *Adrian* the fourth had a great quarrell with the Emperour *Frederic* about it, who had beene so bold as to put his owne name before the Popes, in the letters which he writ, whereof wee have spoken elsewhere. But our predecessours went not so precisely, but in writing one to another they put their owne names sometimes before, sometimes after; as wee could make it appeare by many examples, if it were worth the while.

Placing of
names, of what
force.
Conc. Chalced.
Action. 3.
Linter claras.
C. de sum. tri-
nitare
V. epistolas Leo-
nis.
Item Epist. A-
drian ad Tara-
sum in 2. Act.
Synod. Nicen. 2.
Epistolas diver-
sorum Pontif.
Roman. apud
Willelm. Mal-
mesbur. lib. 3.
de Pontific.
Anglorum.

19 *Bellarmino* addes, that the Councell of *Chalcedon* it selfe hath acknowledged this for true, when they call the Pope their head, and themselves his members. Yea but they were to blame to put the head under the feet in that inscription which we urged. Wee have said before in another place that hee is called the head, because hee was the first in degree of honour amongst the Clergy, because he sate in the first place amongst the Bishops. Others say because hee is the head of particular Churches, but not of the Vniversall, represented by an Oecumenicall Councell. All the other arguments which hee brings are refuted by us in divers places, saving only those which are drawne from the authority of Popes; whom wee desire to forbear as well from giving evidence as from passing sentence, seeing their owne cause is in question.

A

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A
R E V I E W
 OF THE COUNCELL
 OF T R E N T.

B O O K E V.

C H A P. I.

Of Indulgences.



He Pope hath usurped such an excessive power in point of Indulgences, that there is not a good Catholique but is sory for it. I will not here dispute whether these indulgences bee profitable or no, and whether hee hath power to grant them or no, I leave that question to Devines. My aime is to shew that this Council did not satisfie the desire and hope of Catholiques. The abuse which the Popes have committed in matter of Indulgences, and which they commit every day, is notoriously known to every body; as also the complaints that have beene made of it. The Popes have undertaken to pull soules out of Purgatory, by commanding the Angels to take them forth, and to carry them into Paradise. Wee have set downe the Bull of it in another place. As for the plenary pardon of all sinnes, with this expression, *be they never so hainous*, this is ordinary with them: not only at the great Jubily, (which they reduced from an hundred yeares to fifty, from fifty to thirty, from thirty to twenty five, and ere it be long they will abate yet a little more of the terme, to the intent that they

K k

may

*Id constituit
 Paulus 2.
 Vide Bullam
 Julii 3 de ann.
 Jubilei.*

Pardon of future finnes,
occasion of much wicked-
nesse.

Extat Charanti
excusa anno
1588.

may augment their Court, and oblige every body to come thither the oftener) but also in their particular Bulls which they grant out. That of *Sixtus* the fifth of the year 1588, granted to the Catholiques of this Realme of *France* makes prooffe of it; which gives the Curats and Confessours power, *To absolve from all crimes, finnes, and excesses be they never so heinous*: with many others which I could alledge, containing bolder clauses than that: which not long since have with scandall beene presented to open view.

2 But that which is yet more to be condemned in them, is, that the Popes doe not only give remission of finnes already committed, but also of such as are to be committed. Which is a meanes to oblige all the base raskals in the world unto him, and to give them occasion to redouble their crimes and misdemeanours; to rob with foure hands, to kill father and mother, to set upon their Lords and Maisters, to violate the authority of their Princes, and usurpe their Dominions. For provided they can make their party stronger, and that they be devout towards the Holy See, there will be no want of an indulgence: yea even without that, alwayes provided they pay their rent.

Epist. Leodiens.
To. 2. Concil.
edit. Colon. pag.
809.

3 The Clergy of *Leige* in their epistle directed to Pope *Paschal*, tell how they had read that Pope *Gregory* the seventh commanded the *Marchionesse* *Maud*, that as shee would have her finnes remitted, she should make warre against and destroy the Emperour *Henry* the fourth. But wee doe not conceive by what authority either he or others could doe it justly. And afterwards, addressing their speech to *Paschal*, O holy mother Church of *Rome*, hitherto thou observest the fashion and custome of binding and loosing discreetly; and commandest us so to observe it. Whence is then this new authority, whereby impunity of finnes already committed, and liberty of committing for the time to come, is offered to delinquents without confession and penance? What a gaffe hast thou hereby set open to the wickednesse of men? O mother, God deliver thee from all evill.

Matth. Paris.
in hist. Anglor.
in Henr. 3. pag.
935.

4 The story which is related by an *English* Monke is very remarkable. About the same time (saith he; to wit, the year 1258) there came into England a certaine Fryar, of the Order of the *Minorites*, called *Manfuetus*, sent by the Pope, at the instance of the King, who trode in the steps of *Mr. Herlot*, being instructed with a great power, insomuch, that, changing their voves, he absolved all the *Royalists* (as they called them) at his pleasure, or justified excommunicate, falsifiers, and perjur'd persons. Wherenpon divers delinquents tooke occasion to offend; for the facility of pardon gives occasion to sinne: but wise men made a mocke of it. It is a meanes to induce any man to abandon himself to all kinde of vice and lewdnesse, to bee assured that all the finnes which hee can commit shall bee forgiven him.

5 Wee will here set downe some passages out of a Bull which came to our hands, containing the summary of many others, granted by Pope *Paul* the third, (who called the Conncell of *Trent* in the year 1539) to the brethren of the Fraternity of the Sacrament of the altar, printed at *Chartres* by *Philip Hotot*, the year 1550, at the request of the Protectours, Proctours, and brethren of that Fraternity. Loe here the very words; Giving and granting furthermore to the said faithfull Christians, which shall enter into the said Fraternity of the blessed Sacrament of the body of *JESUS CHRIST*, upon the day of their entrance, full pardon of all their finnes, they being first confessed, and the said sacrament of the altar devoutly received. Besides, three times in their life a like plenary pardon in manner and forme of a *Tubily*. Furthermore, unto the said brethren such as shall accompany the said blessed Sacrament when it is administered to sick folks, or to such as by reason of their impediments cannot doe it, and shall cause it to bee so accompanied as is above expressed, and shall assist at Processions and divine service, such as shall bee done and solemnized by the said brethren, as above said, an hundred years of true pardon for every time they shall so assist. And those

those that shall visite the said Church every Friday in the year, ten years of true pardon, and as many quarentains, saying a Pater noster, and an Ave Mary, every Friday. Behold yet another Article which goes further, as wee shall understand by the commentary, *As also power to use and enjoy all and every the priviledges, indults, exemptions, liberties, immunities, plenary pardon of sinnes, and other spirituall graces given and granted to the brother-hood of the image of St. Saviour ad Sancta Sanctorum, of the charity and great hospitall of St. James in Augusta, of St. John Baptill, St. Cosmus and Damianus. Of the Florentine nation, of our hospitall of the Holy Ghost in Saxia, Of the Order of St. Aultin and St. Champ, Of the fraternities of the said citie, Of the Churches of our Lady De Populo & de verbo, together with all the gifts, graces, pardons and indulgences granted by our predeceffours to those which visit the said Churches, or to be granted by our successours, to have and enjoy for ever.*

Pardons granted by severall Popes.

6 In the sequell of that Bull are set downe the indulgences granted to the Churches, brother-hoods, and Hospitals mentioned in the former Article, with the names of the Popes that granted them: amongst whom are named, *Sixtus, Gregory, Innocent, Celestine, Clement the fift, Boniface the eighth, Innocent and Sixtus the fourth.* But wee may doe better to transcribe the whole; for it may bee there is now a scarcity of copies. *The Statutes and Ordinances of the worshipfull Fraternity of the most blessed body of our Lord Jesus Christ, newly founded and erected in the Church of St. Hilary of Chartres, together with a summary of the pardons and indulgences given and granted by our holy Fathers the Popes, and by our holy Father Pope Paul the third of that name, confirmed to the said Fraternity, and all others of like denomination, as well at Rome as out of Rome, erected or to bee erected. Which Statutes and Ordinances, by virtue of the taking out of those Bulls made thereupon, by authoritie of Pope Julius the third of that name now reigning, given at Rome the sixt day of May, in the year one thousand five hundred and fiftie, shall bee observed and kept in manner and forme following. The pardons, Indulgences, Iubily, and plenary remissions granted to such as visit the altar, where the blessed Sacrament and precious body of Jesus Christ is placed in the said Church of St. Hilary, upon the daies, in the yeare, and according to the manner and forme hereafter declared and expressed; to the end that every Christian desirous of his salvation, may purchase and come by them.*

7 And first the declaration of the Indulgences given and granted to the brethren of the said Fraternitie found in the Church of St. Hilary of Chartres, verified, approved, and confirmed for ever, but made valid by our holy father, Pope Julius the third of that name now reigning.

8 The Indulgences granted to the Hospitall of St. James in Augusta.

9 The Indulgences granted to the Church of St. John of Florence, and to the company and society of the said nation, and of St. Cosmas and Damianus of Rome.

10 The Indulgences granted to the societie of the holy Camp of Rome.

11 The Indulgences granted to the brethren and sisters of St. Saviour ad Sancta Sanctorum.

12 The Indulgences granted to the companie of the Charitie of Rome.

13 The Indulgences of the great Hospitall of the Holy Ghost in Saxia, of the Order of St. Aultin of Rome.

14 The Indulgences of our Lady de Populo of Rome.

The catalogue and declaration of the Indulgences aforesaid, with the names of the Popes that granted them, and the dayes upon which they may be had.

15 First, our holy Father Pope Leo hath granted to all and every one of the said

Plenary pardons granted by Leo and Gregory, Popes.

said brethren which shall be present at Processions and other divine service, celebrated upon Corpus Christi day, remission of all their sinnes, provided they bee confessed and penitent, or have a full resolution to confesse themselves at the times appointed by our holy mother the Church.

Plenary pardon to those of the brethren that shall name the name of *Iesue* at the point of death.

16 *Item, hee hath granted a plenary pardon to all such of the brethren of the said Fraternity, as shall name the name of Jesus at the point of death, and they shall bee partakers of all the good workes of the whole Church Catholique.*

Plenary pardon upon all the feast dayes of our Lady, upon All Soules day, and upon St. Philip and James day.

17 *Item, he hath granted to every one of the said brothers and sisters, who upon any of the feasts of our Lady, upon All Soules day, and upon Philip and James day, from the vespers of the eves untill the vespers of the said dayes. shall, being confessed and penitent, visite the great Altar of St. Hilary, upon which the most precious blessed Sacrament is set, plenary pardon of all their sinnes, upon every one of the said dayes.*

Plenary pardon upon all the second Sundayes in June and upon the sixteenth of July.

18 *Item, Pope Sixtus hath given and granted to every brother and sister that shall visite the said altar upon the second Sunday in June, and the sixteenth day of July every year, for every of the said dayes a plenary remission of all their sinnes.*

Plenary pardon to the dead.

19 *Item, he hath granted to every brother that shall give any almes, or offer any sacrifice, according to his meanes and ability, by way of suffrage for the soule of any one deceased, that hee shall obtaine plenary pardon for the sinnes of him so deceased.*

Plenary pardon upon our Ladies day in mid-August, which is the Assumption.

20 *Item, Pope Gregory hath given and granted to every brother that shall visit the altar of the blessed Sacrament in the said Church of the said St. Hilary upon our Ladies day in mid-August, which is the Assumption day, plenary remission of all his sinnes.*

Plenary pardon upon all the feasts of our Lady, and the Octaves of them, and upon all the feasts of the Apostles.

21 *Item, hee hath given to all the festivals of our Lady, and the Octaves of them, and to every feast of the Apostles, plenary pardon of all sinnes.*

Easter day and eight dayes following.

22 *Item, Pope Innocent hath granted to the said brothers and sisters, upon Easter day, and eight dayes following, foure thousand eight hundred years of*
Quaran-

Quarantains, and remission of the third part of all their sinnes.

Several Popes
pardons.

Twelfth day, and the octaves of that festivall, and
the nativity of our Lady.

23 *Item, hee hath granted to the twelfth day, and the octaves thereof, five thousand years; to the day of the nativity of our Lady, and the octaves of it thirty thousand years of true pardon.*

Ascension day and the octaves thereof.

24 *Item, Pope Clement the fifth hath granted to the said brothers and sisters upon Ascension day, and the octave thereof two thousand years of true pardon.*

25 *Pope Boniface the eighth hath granted to the said brothers and sisters upon the said Ascension day and the octaves thereof two thousand years of true pardon.*

The day of the Assumption of our Lady.

26 *Item, Pope Innocent hath granted to the said brothers and sisters upon the day of the Assumption of our Lady, two thousand eight hundred years, and as many quarantaines of true pardon.*

All Saints day.

27 *Item, Pope Bennet the twelfth hath granted to the said brothers upon All Saints day three thousand eight hundred quarantains of true pardon.*

Plenary pardon upon all the festivals of our Lady, to those that
shall visit the altar upon which the blessed Sacrament
standeth in the Church of St. Hilary.

28 *Item, Pope Sixtus the fourth hath given and granted to the said brothers and sisters that shall visit the said altar in the Church of St. Hilary, upon which blessed Sacrament of the Altar standeth, upon any of the festivals of our Lady, from the first Vespers to the second, plenary pardon of all their sinnes.*

All the Satterdayes in Lent.

29 *Item, he hath granted to the said brothers which shall visit the said Altar all the Satterdayes in Lent, for every day a thousand eight hundred years of true pardon.*

All daies from Thursday in mid-Lent till Low Sunday.

30 *Item, hee hath granted to the said brothers and sisters visiting the said altar as before, from Thursday in mid-Lent, till Low Sunday, for every day a thousand eight hundred years, and two thousand quarantains of true pardon.*

The day of entrance into the said Fraternity of the venerable
and most precious blessed Sacrament of
the Altar.

31 *Over and above the said pardons and Indulgences so granted as abovesaid, our holy Father Pope Paul the third of that name, doth give and grant, as appears*

Pardons granted by Pope Paul the third.

by his Bull, plenarie indulgence and remission of all their sinnes in manner of Jubilee to every one that shall enter into the said Fraternity, and shall be confessed and penitent for his sinnes upon the day of his entrance, and shall have received the most blessed body of our Lord Jesus Christ.

Plenary pardon three times in their life.

32 Item, hee gives and granteth moreover to every one of the said brothers and sisters, plenarie pardon and indulgence of all their sinnes, thrice in their life, upon what day and howre they please.

An hundred years to all those that accompany the body of our Lord Jesus Christ, when it is carried to sick folks.

33 Item, he gives and grants an hundred years of pardon to all those that shall accompany the blessed sacrament of the altar when it shall be carried to sicke folks; and as much to those that cannot goe themselves, but shall send one of their servants with a candle, and to those that can neither goe nor send, if they say one Pater noster, and an Ave Mary, to every one an hundred years of true pardon.

To those that shall assist at Masses, services, and Processions.

34 Item he gives unto all the Brother and Sisters of the said Fraternity that shall assist at the Service and Processions made in the said Church of S. Hilary in honour of the said blessed Sacrament, to every one a hundred yeares of true pardon.

To those that shall visit the Church of Saint Hilary every Friday.

35 Item, he gives and grants to the said brothers and sisters which shall visit the said Church and the said Altar of Saint Hilary, every Friday, and shall say devoutly one Pater noster and an Ave Maria, in honour of the most precious blessed Sacrament of the Altar, ten yeares and ten quarantains of true pardon.

Of chusing their Confessour.

36 Item hee hath given and doth give to every one of the said Brothers and Sisters licence and power to chuse three times in their life any Priest Secular or Regular for their Confessour, who shall absolve them from all sinnes and offences, how hainous and enormous soever, yea though they bee such as are reserved to the holy See Apostolique, alwayes excepted such as are contained in the Bull which is read at Rome upon Maundy Thursday.

For visiting the Altar, upon which the blessed Sacrament stands in the said Church of Saint Hilary of Chartres, every day in Lent.

37 Item our said holy Father, according to the priviledges given and granted in the Hospitall of the Holy Ghost, and other places particularly mentioned, at which the stations both within the City of Rome, and without the walls of the said City are appointed to be, doth give unto all the Brothers and Sisters which shall visit the said Altar upon which the blessed Sacrament of the Altar resteth in the Church of the said St. Hilary, upon the dayes following :

Inprimis. The first day of Lent, three thousand yeares of true pardon, and plenary remission of all his sinnes over and above.

Thurs-

Thursday, ten thousand yeares.

Friday, ten thousand yeares.

Saturday, ten thousand yeares.

Pardons in
Lent.

The first Sunday in Lent, eightene thousand yeares of pardon, and remission of all sinnes to boot.

Munday, ten thousand yeares, and a plenary indulgence.

Tuesday, twenty eight thousand yeares, and as many quarantains, and remission of the third part of their sinnes, and the delivery of one soule out of Purgatory.

Wednesday, twenty eight thousand yeares, and as many Quarantaines, and remission of the third part of their sinnes.

Thursday, ten thousand yeares of true pardon, and remission of all their sins.

Friday, thirteene thousand yeares of true pardon, and plenary remission of all their sins.

Saturday, twenty eight thousand yeares, and as many quarantaines; and besides, remission of all their sinnes.

The second Sunday in Lent, twenty eight thousand yeares, and as many Quarantaines.

Munday, ten thousand yeares of pardon, and remission of the third part of their sinnes.

Tuesday, ten thousand yeares.

Wednesday, ten thousand yeares.

Thursday, ten thousand yeares.

Friday, ten thousand yeares.

Saturday, ten thousand yeares; and besides, remission of all their sinnes, with the deliverance of one soule from the paines of Purgatory.

The third Sunday in Lent, ten thousand yeares, and twenty eight quarantains of true pardon, and deliverance of one soule out of Purgatory.

Munday ten thousand yeares.

Tuesday, ten thousand yeares.

Wednesday, ten thousand yeares.

Thursday ten thousand years.

Friday, ten thousand yeares.

Saturday, ten thousand yeares, and plenary remission of all their sins.

The fourth Sunday, remission of all their sinnes, and deliverance of one soule from the paines of Purgatory.

Munday, ten thousand yeares.

Tuesday, tenne thousand yeares, and remission of the third part of all their sinnes.

Wednesday, tenne thousand yeares, and remission of the third part of all their sinnes.

Thursday, ten thousand yeares.

Friday, ten thousand yeares.

Saturday, ten thousand yeares.

The fift Sunday, which is the passion Sunday of our Lord Iesus Christ, twenty seven thousand yeares, and as many Quarantains, with remission of the third part of all their sinnes: and they may get these pardons twice a day, visising the said Altar as is aforesaid.

Munday, ten thousand yeares. •

Tuesday, ten thousand yeares.

Wednes-

Pardons after
Easter.

Wednesday, ten thousand yeares.

Thursday, ten thousand yeares.

Friday, the deliverance of one soule from the paines of Purgatory.

Saturday, twelve thousand yeares of pardon, and deliverance of one soule out of Purgatory.

The sixt Sunday, being Palme Sunday, twenty five thousand yeares, and forty eight quarantains of true pardon; and besides, remission of all their sins.

Upon this day they may get the said pardons twice, as was said of the former Sunday.

Munday, twenty five thousand yeares, and remission of the fourth part of all their sins; and besides, plenary remission of all sins.

Tuesday, twenty eight thousand yeares, and plenary remission of all their finnes over and above.

Wednesday, eightene thousand yeares.

Thursday, twelve thousand yeares, and as many quarantaines, and remission of all their sins beside.

Good Friday, a great number of pardons and indulgences, and plenary remission of all sins.

Saturday before Easter, two and twenty thousand yeares, and forty eight quarantains of pardon, and plenary remission of all sins.

Easter day, twenty eight thousand yeares, and as many quarantains of pardon, and plenary remission of all sins.

Easter Munday, twenty eight thousand yeares, and as many quarantaines of true pardon, and plenary remission of all sins.

Easter Tuesday, ten thousand yeares.

Wednesday, fifteene thousand yeares, and as many quarantaines, and the deliverance of one soule out of Purgatory.

Thursday, fifteene thousand yeares, and plenary remission of all sins.

Friday, fifteene thousand yeares.

Saturday, fifteene thousand yeares, and plenary remission of the third part of all their sins. And they may have them twice a day, as before.

Low Sunday, fifteene thousand yeares, and plenary remission. And they may get them twice a day.

The Stations after Easter in the said Church of S. Hilary,
doing as is set downe before, and visiting the said altar of the blessed Sacrament.

38 * Imprimis, St. Marks day, eighteen thousand years, and as many quarantains.

* Ascension day, twenty eight thousand years, and as many quarantains.

* Whitsun eve, fifteen thousand years, and remission of all finnes.

* Whitsun Sunday, twenty eight thousand years, and plenary remission of all their finnes.

* Whitsun-munday, remission of all finnes.

* Tuesday, twenty three thousand years.

* Wednesday, twenty eight thousand years, and as many quarantains, and remission of the third part of their finnes, and the deliverance of one soul out of Purgatory besides.

The Stations of Advent in the said Church of St. Hilary.

39 * The first Sunday in Advent, twenty eight thousand years, and as many

- ny quarantains, and remission of the third part of all their sins.
 The second Sunday, eleven thousand yeares, and plenarie remission of all
 finnes, granted by St. *Syluester*.
 The third Sunday, twenty eight thousand years, and as many quarantains,
 and remission of the third part of their sins.
 The Wednesday in Ember week, twenty eight thousand years, and as ma-
 ny quarantains, and remission of the third part of their sins.
 Friday, eleven thousand years, and plenarie remission of all sins.
 Saturday, twelve thousand years, and as many quarantains, and plenarie re-
 mission of all sins.
 The fourth Sunday, eleven thousand yeares, and plenarie remission of all
 finnes.
 At the second masse upon Christmas day, which is called the day breake
 masse, twentie eight thousand years, and as many quarantains, and plena-
 rie remission of all finnes.
 St. *Stephens* day, twentie eight thousand years, and as many quarantains,
 and plenarie remission of all finnes.
 St. *John* th' Evangelists day, twentie eight thousand yeares, and as many
 quarantains, and plenarie remission of all finnes.
Innocents day, fiftene thousand years, and as manie quarantains, and remis-
 sion of all finnes.
 The day of Circumcision, which is new-years day, twentie five thousand
 years, and plenarie remission of all sins.
 Twelfth day, twentie eight thousand years, as manie quarantains, and ple-
 narie remission of all their finnes.
Septuagesima Sunday, eleven thousand years, and fourtie eight quarantains,
 and the remission of the third part of their finnes, with the deliverance of
 one soule out of purgatorie.
Sexagesima Sunday, thirteen thousand years, and fortie seven thousand qua-
 rantains, and remission of the third part of their sins.
Quinquagesima Sunday, twentie eight thousand yeares, and as manie qua-
 rantains of true pardon.
 40 And the said pardons and indulgences here above mentioned, are gran-
 ted onely to the brothers and sisters of the said Fraternitie, which shall upon
 the daies aforesaid everie yeare visit the said altar in that Church of St. *Hi-*
lary of *Chartres*, upon which the blessed Sacrament and precious bodie of
Iesus Christ is placed.
 41 *Medard Thiersault*, Prielt, Licentiat in the Lawes, Canon of *Chartres*,
 Official and Vicar Generall both in the spirituality and temporality of the re-
 verend Father in God Monsieur *Lewes*, by the grace of God and the holy
 See Apostolique Bishop of *Chartres*, to all and singular the Parsons and Vi-
 cars of the Churches within the Citie of *Chartres*, sendeth greeting In our
 Lord God everlasting. Pope *Paul* the third of happy memorie, did heretofore,
 of his own proper motion, for the honor & reverence of the precious blessed
 Sacrament, grant unto the brothers of the fraternity of the blessed body of Je-
 sus Christ, in the *Minerva* of *Rome*, certaine indulgences, plenarie remission of
 finnes, inimmunities, and other graces, the good devotion and upon petition
 of the faithfull Christian Brothers. Which indulgences and plenarie remis-
 sion of sins, our holy Father *Julius* the third by the divine providence Pope,
 to the end that all Christians should presse more earnestly and devoutly to
 come and honour the so admirable blessed Sacrament, of his owne authoritie
 and dignitie hath willed and decreed that they bee of perpetuall force and
 efficacie. And these indulgences and other graces aforesaid, at the instance
 and request of the most noble personage Mr. *Christopher de Herovard* the
 Lieu-

Reformation
in point of in-
dulgences re-
quired.

‘ Lieutenant Generall of the most Christian King within the Bailiwick of
‘ *Chartres*, hath communicated and granted them to the Brothers and Sisters
‘ of the Fraternitie of the most blessed body of Jesus Christ, heretofore institu-
‘ ted and erected in the Church of Saint *Hilary* of *Chartres*, alwayes provi-
‘ ded that like grace and gift was not formerly granted to any other Church of
‘ the said Citie of *Chartres*. And forasmuch as we have viewed the contents
‘ of the said indulgences, in the publique instrument out of the copie of *Dome-*
‘ *nic* Bishop of *Hofia*, Cardinall of the holy Church of *Rome*, by title *Traven*,
‘ Deane of the sacred Apostolicall Colledge, Protector and Patron of the de-
‘ vout and Catholique Fraternitie of the blessed body of our Lord Jesus Christ,
‘ founded in the Church of our Lady of *Minerva*, of the Order of Friars pre-
‘ dicants in the Citie of *Rome*, in manner of an exemplification, published,
‘ drawne, signed and sealed by *Genese Bulter*, Secretary to the said Fraternitie,
‘ given at *Rome* the sixt of May, one thousand five hundred and fiftie. And fur-
‘ thermore, whereas by a certaine declaration made unto the Court of *Rome*,
‘ by the command and with the leave of the Reverend Father in God the Lord
‘ Bishop of *Chartres*, and as it seemes to us truly and lawfully made, that ‘tis
‘ certaine the like grace was never granted to any other Church in the Citie of
‘ *Chartres*: Wherefore we command you to publish and cause to bee publish-
‘ ed in your Churches, the said indulgences and the exemplifications of the let-
‘ ters aforesaid, according to their forme and tenure. Giving leave to the said
‘ Mr. *Christopher de Herovard*, to cause the said Graces and Indulgences to be
‘ published within the Citie and Suburbs of *Chartres*, whether by Siquis’s or
‘ otherwise, as the same *Herovard* shall thinke good. Given at *Chartres* un-
‘ der the seale of the Chamber of the said Reverend Father in God the Bishop
‘ of *Chartres*, in the yeare one thousand five hundred and fiftie, upon Thurs-
‘ day being the last of Iuly. Subscribed,

P. le Seneux.

Guil. Durant.
de Concil. part.
3. Tit. 15.

Panormit. in
Confil. super
Conc. Basil.

Conc. Constant.
Sess. 40.

Platina in
Martino 5.

Joannes Ger-
son in 2. part.
oper. Tract. de
Indulg.

Confid. 5.

Confid. 6.

42 See here how the Popes play with their indulgences, and amongst the
rest two of them which presided by their Legats at the Councell of *Trent*, to
wit, *Paul* the third, and *Julius* the third. The reformation of such abuses
was required heretofore in such Generall Councils as were then holden; as
by the Bishop of *Menda* in that of *Vienna* in *Dauphiny*; who amongst other
points by him proposed unto the said Councell, puts this for one; *It were fit to*
provide a competent remedy for this, and besides to cause the fees of the carriers
and Nuncio’s of the Court of Rome to cease. We have told you elsewhere up-
on the testimonie of the Bishop of *Panormo*, that by reason of the too hastie
breaking up of that Councell by *Clement* the fift, that reformation was never
medled with.

43 Amongst other articles proposed by divers nations at the Councell of
Constance touching the point of reformation, this about *Indulgences* was one,
upon which they were to deliberate after the creation of the Pope. But *Martin*
the fift being elected, he referr’d the case to another time. And forasmuch as
Mr. *John Gerson* Chancelor of the Vniversitie of *Paris* was present at the same
Councell, and in very much repute and authoritie, both in behalfe of the Vni-
versitie, and as deputy for *Charles* the sixt, King of *France*, we will here make
him declare his beleefe in matter of Indulgences. Behold here his articles.

44 ‘ The onely supreme Pope, Christ, together with the Father and the
‘ Holy Ghost, can by a plenary authoritie grant a totall indulgence, as well
‘ from punishment as fault.

45 ‘ The onely Pope Christ can commute eternall punishment into tempo-
‘ rall, or absolve from punishment, freely, and without any merit besides his
‘ owne.

46 ' The onely Pope Christ can give indulgence for so many thousand millions of dayes and yeares as we finde in divers grants of Popes and others, in divers times and places, and upon divers occasions.

Gersons opinion of Indulgences.

*Consid. 8.
Consid. 10.*

47 ' The granting of Indulgences for so many millions, not onely of daies but yeares, seemes impossible to be maintained without great difficultie, after remission of eternall punishment, and commutation into temporall. For it is certaine that no particular man can or ought to bee bound to doe penance so many yeares, forasmuch as he cannot live the thousand part of those yeares, and no man is bound to impossibilities. It is also certaine that Purgatory shall cease at the worlds end, and consequently the dayes of his penance too.

48 ' From hell there is no redemption. At the end of that Tract hee hath these verses.

*Arbitrio Papa proprio si clavibus uti
Possit, cur finit ut pœna pios cruciet ?
Cur non evacuat loca purgandis animabus
Tradita ?*

*Versus Gersonis
super materia
indulgentiar.*

- ' If so the Pope may use the keyes at's pleasure,
- ' Why does he let good men such paines endure ?
- ' Why does he not (too cruell and unkinde !)
- ' Emptie the place for purging soules design'd ?

49 Now whereas he beleeves that the Popes indulgences doe not reach so farre as hell, that is hereticall as well as the other articles by him set downe. For other Doctors hold that the Pope is Lord of the world, that he officiates in the nature of Christs Vicar, both in things celestiall, terrestriall, and infernall. *Augustin de Ancona*, approved by the Popes as well as the former author, argues thus in the matter of Indulgences. Pope St. Gregory delivered Trajan from the paines of hell, which are infinite, by his prayers, therefore much more may hee deliver all those that are in Purgatory from their paines, which are but finite, by meanes of Indulgences. *Alexander of Hales*, one of the prime Divines, puts a little mysterie in it, for he saith that Trajan being raised up againe by St. Gregorie's prayers, did penance and was baptized. And indeed there was good reason he should passe through this formalitie. But let us returne to our plain-tives.

*Lancelotus Conradus in templo omnium judic. lib. 2. cap. 1.
Augustinus Triumphus de potest. Eccles. qu. 32. art. 3.
V. Additionem Augustini ad illum 3. artic. Augustin. de Ancona.*

50 The Councell of Trent was likewise pressed about this reformation, by King Charles the ninth, and by the German nation, as appeares by their demands, which wee have set downe elsewhere, to which it was reason that some regard should have beene had. Some will tell me that so there was. If that be so I am farre deceiv'd. Let us see how then. ' Desiring that the abuses which are crept into them by little and little, and by occasion whereof the worthie name of Indulgences is abused by heretiques, may be corrected and amended, the Councell doth by this present Decree ordaine in generall, that all wicked gaires for the purchasing of them, whence the main cause of these abuses amongst Christian people first sprang, be utterly abolished. But for the rest which proceeded from ignorance, superstition, irreverence, or other occasion whatsoever, seeing they cannot conveniently bee prohibited in particular, by reason of the divers corruptions of the places and provinces where they are committed, the Synod commands all Bishops, that every one of them diligently observe the abuses of his Church, and give notice of them at the first Provinciaall Synod ; to the end that being knowne by the other Bishops also, they may forthwith be presented to the Pope : by whose authoritie and wisedome that shall be ordained which is expedient for the Church universall.

Concill. Trid. Sess. 25. Decret. de Indulg.

Fraternities
enemies to the
State.

51 See here processe is made against those under-rogues of Wallet-bearers and beggars, which undertooke to sell these false spices in behalfe of the Bishops and other inferiour Officers. But for the Pope his authoritie is preserv'd safe and sound, as well in this as in all the rest. His penitentiary taxe is neither dead nor sicke for all this; for they abolished onely all wicked gaines which arise from them. Who dare bee so bold as to referre that to the Pope? He should be damned for it a thousand times for want of Indulgences. Judge what reformation they will make of this matter, which are the authours of this disorder; which reape profit by it; which build their greatnesse upon it; and who by that meanes make themselves omnipotent over weake and fearefull soules.

CHAP. II.

Of Fraternities.



Concil. Trident.
Sess. 22. cap. 9.

And forasmuch as these large Indulgences whereof wee have spoke, are most commonly granted to Fraternities, as appears by the Bulls of them which have beene produced, it is good reason we speake a word of them too. King *Charles* the ninth in his demands required a reformation of the abuses of such Fraternities. The Councell found nothing to be corrected in them; but tacitly confirm'd them, by ordaining that the administratours of them shall give account of their administration every yeare unto the Ordinary. They were wary enough not to touch upon that point, seeing it directly concernes the Popes authority. By meanes of these indulgences and the superstition which hee useth in them, he gaines millions of men unto himselfe, who devote themselves so much unto him, for the especiall favour which they suppose they receive by meanes of these indulgences, that they doe not acknowledge any other superiour.

2 Former times have instructed us, that leagues, and monopolies, and conspiracies against the State, have beene hatched in such Fraternities as these, and that disorders and other unlawfull things have beene committed among them. They have beene prohibited in all well policied Kingdomes and Commonwealths, and particularly in our *France*: where wee must observe that as they have beene instruments of trouble and dissolutenesse; so they have beene judged hurtfull to peace and concord. And for that reason they are condemned by the Edicts and Declarations of our Kings, as the mothers, or at least the companions of conspiracies; for they are so joyned together by the same Ordinances: as in that of *Henry* the third, of September 1577. And all leagues, associations, and fraternities, made or to be made, under any pretence whatsoever, to the prejudice of this our Edict, shall bee utterly void and of no effect. And in that of the same Prince, given the 20 of December in the same yeare. Wee expressly forbid all our said subjects, of what qualitie soever they be, to begin, make, or prosecute any league, association or fraternitie amongst themselves, to the prejudice of our said Edict of pacification. The 44 Article of the conference of *Flex* saith in expresse termes, All the foresaid (to wit, Provosts, Maiors, Consuls, Sherifes of townes, &c. mentioned in the former Article) and other Subjects whatsoever of this Realme, of what condition soever, shall depart from and

RENOUNCE

renounce all leagues, associations, fraternities and intelligences, as well within the Realme as without.

3 *Durant* Bishop of *Mende* in the reformation which he presented to the Councell of *Vienna*, holden in the year 1311, perswaded the abolition of these fraternities for two reasons: for their dissolutenesse, and for conspiracie against their superiours. It would bee also usefull (saith hee) that fraternities, wherein both Clergy and Lay doe nothing but soyle themselves with delicates, live in dissolutenesse and drunkenesse, and busie themselves in divers plots against their superiours, were abolished. There is at this day one in request in this Kingdome, which we may and must beleeveto be both seditious and hereticall; to wit that of the *Recommandati* to the blessed *Virgin Mary*, otherwise called *Confalonesi* at *Rome*; and in *France*, The Order or Fraternity of the Chaplet, the Order of Penitents, the Order of *Battu's*: all these are but one thing. There are some poore innocents that enroll themselves among them, thinking to find the salvation of their soules there, and to enjoy the virtue of so many goodly indulgences. Some of them pride themselves in going in a masque as it were, and walking about the towne in a white, or black, or gray garment, or of some other colour: some with their white sandals, and their sweet-meats in their pockets to throw at a sweet-heart as they passe along, after they have cast many a pitifull amorous glance at her. Another with a whip in his hand full set with prickles, lancing himselfe and drawing blood of his back, who goes from street to street, and Church to Church begging for mercie; serving for a spectacle and an offence to all those that behold these antiques. But the most part of them are Statesmen, fine, cunning, delighting in troubles, and enemies of peace. Which make use of such assemblies to cast their plots, to build their designs, and to put them in execution.

4 This Order was cried downe in the Citie of *Paris* by the late King *Henry* the third, because he was certified of the conspiracies which they made against the State. It is notoriously knowne to many that the League was sworne in *Tholouse* by the blacke Penitents; and that as many of these Orders as are in *France* did all conspire to the like ends. And yet notwithstanding we see them now adaies spring up againe in divers Cities. This Societie and Fraternitie was renewed by *Gregory* the thirteenth, the year 1576, as appeares by his Bull of the fourth of October. What time, a little after the arrivall of the Bishop of *Paris*, that consultation about the League was held at *Rome*, which was found in the Advocate *Dauids* coffer. Now the penance which *Gregory* saith he renewes unto them, is this: That the said Brothers, instead of those which wee call Canonick honres, shall not faile to say the Lords prayer five and twenty times, Pater noster, &c. and the Angels salutation as many times, Ave Maria, &c. Adding at the close, Gloria Patri, &c. which is said after every Psalm in the Church. And also they shall say the said Orisons and Salutations, Pater and Ave, seven times; with the versicle Requiem æternam, &c. and the responce, Et lux perpetua, &c.

5 All these Pater nosters, Ave Maria's, and Requiems, are comprehended in a Crowne or Chaplet, spoken of in the same Bull, the forme whereof is represented at the end of the Bull, which they must hold in their hands, and say over in order in such a measure as is there exprest. And this being so done, We release them (saith the same *Gregory*) twenty yeares, the sundayes and festivals and other holidayes ten yeares, of the penance which shall or ought to bee enjoyned them upon the day that they shall be acquitted from the said Crowne. Besides, wee grant unto the said Brothers plenary indulgence and pardon of their sins, such as being contrite and confessed shall say over the said Crowne or Chaplet upon the dayes of Christmas, Easter, & Whit Sunday; as also upon those other daies which the Catholique Church doth celebrate in honour of our Lord Iesus Christ, and of our Lady.

The Order of Penitents.

Guil Durant.
Episc. Mima-
tenf. de modo
celebr. Concilii.
part. 2. tit. 35.

Gregory the 13
his Bull of the
12 of October,
printed at *Paris*
by *Michael In-*
lian 1583.

Of the Sect of
Flagellants.

6 There are yet other Indulgences in the same Bull, both for the quick and the dead, which we omit. It was printed at *Paris* by *Michel Iulian* the yeare 1583, with the picture of our Lady stretching out her veile over two of these Battu's or Penitents, dressed in their proper habits and hoods, which cover all the head except the eyes, and their whips in their hands; which made mee call them heretiques; for they are the successours of those *Flagellators* that were condemned as such. We will here set downe some passages out of such authors as speake of them.

*Nacler. vo-
lum. 2. generat.
45.*

7 And first out of *Naclerus* Provost of *Tubinge*. 'In the same year 1346, the Flagellators came into *Germany*, men of divers conditions, who begun to whip themselves, travailing from place to place. Two hundred of them came out of *Suevia* into *Spire*, having among them one head & two masters, whose command they obeyed. These setting themselves in a ring before the Monasterie of *Spire*, about an houre after dinner, and putting off their garments, having shirts on after the fashio of breeches, which went from the waist down to the heels, they cast themselves down upon the ground in form of a Crucifix; all of them whipping themselves, singing, & calling upon God, turning themselves upon their faces, praying for themselves & for their benefactors and malefactors. There were amongst them some Priests, and lettered men, both noble and ignoble, women and children. The good will of every one of the inhabitants of *Spire* was so great towards them, that being all presently invited, there were not enow of them for those that desired them. For they tooke no almes, but if they were invited to any mans table they went with the leave of their masters. They whipt themselves twice a day, and every one once a night privately. They never spoke to women. They wore all crosses upon their garments before and behinde, and upon their bonnets: having whips hanging at their garments: and they staid not above one night in one parish: into this societie they admitted above an hundred people of the Citie of *Spire*. But none was admitted untill he had first promised to observe all things aforesaid: and that hee was able *de proprio* to spend eight pieces of silver a day called *Hallenses*, that he needed not begge: and that hee was certaine he had beene confessed, contrite, and had forgiven his enemies all manner of injuries; and besides it was requisite hee should have his wives leave. There came such a multitude of them to *Strasbourg* as it was impossible for any man to number them. But there they were compelled to forbear, by the Emperour *Charles* the fourth, and by the Friars mendicant and the Priests. At last they went on devotion to *Avinion*, where the Popes Court was. And after they had whipt themselves in *St. Peters* Church, Clement the sixth would have imprisoned them, but some of the Cardinals excused them. Then the Pope forbad both them and all other Christians to use any such publique whipping from thence forwards upon paine of excommunication by that his sentence; and yet that a penitent might whip himselfe in private notwithstanding. *Albertus Argentinensis* hath the very same story in the same words.

*Albertus. Ar-
gentin in Chro-
nic. sub anno
1349.*

*Chronicum
Chronic. sub
ann. 1273.*

*Albert Crantz.
Wandalic lib. 8.
cap. 29.*

8 The author of the booke intituled *Chronicum Chronicorum*, speaks thus of them, *The Sect of the Flagellantes had their originall in Italy, and from thence it was spread into Germany and France. They whip'd themselves out of ostentation with knotted whips, whereto were fastned certaine prickes: from this Sect many grievous errors arose in diverse places, about the faith and sacraments of the Church. At last it was utterly rooted out, partly by fire and partly by sword.* *Albertus Crantzius* hath a long discourse of them, much like to that of *Naclerus*; *About this time* (saith he, meaning about the yeare 1300) *the Sect of the Flagellants did strangely increase in many Provinces. It is uncertaine who was the first author of it, unlesse it was he that sowed sares while other men sleep,*

as the Gospel speaketh. Hereupon they were called Acephali, that is, headlesse. Clownish fellows, that tore their bodies with the lashes of their whips through the fields in Germany. They wore crosses upon their garments: They marched in troupes through the countrey, in an orderly Procession: having their head and face covered all but the eyes; and their countenance cast downe upon the ground: they alwaies looked sad and discontent. Their whips were made of three cords; everie one of which had a knot, and every knot his piece of iron sticking out in fashion of a crosse. They had their backs and shoulders all putrified with great blowes and wounds. As soone as they were entered into a Church, they put off their clothes, and appareled themselves in linnen breeches, which went from the navill downwards, &c.

Gerson against
the Flagellants.

9 This Sect sprung up presently after the Councell of Constance; not as the former, but a little more handsomely, with more pretence and colour of devotion. The Clergy whip'd themselves in the Churches; and also many Lay men of all sorts, without running abroad in the world, as the other did: in short, a man cannot tell what to compare them to better than to the Battu's of our times. What I shall speake shall be proved by the testimony of Mr. John Gerson Chancelour of Paris, who writ a treatise against these Battu's, what time he was resident at the Councell of Constance; which hee sent, together with a letter to one Vincentius, a favourer of theirs, of the Order of Predicants. But I am to blame to say so much of it: Let us heare that great Devine speake himselve, out of whom wee shall select the principall passages:

10 'The law of Christ (saith hee) ought no lesse to eschew the superstitions of the Gentiles and Idolaters (especially such as are horrid and cruell) in the service of God, than the old law. Now in that there is an expresse prohibition in the 14 of Deuteronomie, where it is said, Yee are the children of the Lord your God, ye shall not cut your selves. The glosse saith; You ought not to make your selves like Idolaters: and it is in the Hebrew, You shall not rent your selves. Now so did the Idolaters, as it is written in the 2 of Kings Chap. 18. Where it is said that they cut themselves, according to the custome, with knives and lances, till the blood gushed out. Surely it is a known thing, and hath been left unto us upon record in writing, that these murderous and Apostate Divels do long after the effusion of blood, especially mans blood. A law the more injult it is, and more pleasing to the Divell, the more cruell it is found to bee. This is evident from the example of such as sacrificed their sonnes and daughters. And therefore the Lord said by his Prophet, You shall serve strange Gods which shall not give you any rest. But Christ by his grace hath bin pleased to save us mercifully by the shedding of his blood; whereby hee hath made us towards God wisdome, and justice, and sanctification and redemption. A little after, Christs law doth straitly forbid to impose any publique penance upon Clergy men, Priests, and Prelats, for reverence to their spiritual profession. How much lesse ought such persons submit themselves to such publique penance, as many of the Flagellants do? who though they seeme to hide themselves, yet are they sufficiently knowne. The same may be said of noted persons of both sexes. And regard should also bee had of the modesty of young children and damosels, which are seene to de-vest themselves. A little after hee saith, 'The law of Christ declared by the Church, hath alwaies disallowed the Sect of such as whip themselves, having observed that it began to spread in divers parts of the world. This hath beene seene within the memory of some men yet alive, both in Lorraine, Germany, France, and manie other places, as both the men and Chronicles of France doe testifie, and other writings of good credit: Item, no evill could subsist if it had not some shew of good: Wherefore it is a Sophisticall argument, much good redounds from this Sect of Flagellants, therefore it ought

Joannes Gerson in 1. part.
operum.
Tractat Contra.
Sectam Flagellantium se. p. 22

Flagellants
condemned by
Gerson.

‘ought not to bee abolished and disallowed. The law of Christ made by
‘men, doth not only respect God, but our neighbour also, and the Prince, and
‘his Prelats. And therefore it is not lawfull for the people to set up all kind of
‘fashions, which may bee occasion of sedition, faction, or superstition, &c.
‘*Item*, The law of Christ is sufficiently set forth unto us in the precepts of the
‘decalogue, the observation wherof if it be perform’d with an honest simplici-
‘tie, and (that I may so say) with a grosse faith, is sufficient to salvation; es-
‘pecially in respect of the Laitie and common people, without any new im-
‘position of such hard tasks. *Item*, The law of Christ, as it is sufficiently explained
‘by his Apostles and the sacred Doctours, hath not invented any such novel-
‘ties of *Flagellants*, either by sermons or otherwise: but hath represented them
‘rather as most suspect and dangerous. *Item*, The law of Christ teacheth by
‘the waies aforesaid, and many other such like, that the Prelats of the Church,
‘the Pastours and Doctours, yea even Princes ought to labour and endeavour
‘to distract and disperse such a bloudie Sect as this; both by preachings and
‘good perswasions, and by censures not onelie Ecclesiastical but temporal too,
‘as our predecessours did: considering that under this cloak and pretence of
‘penance, a number of wickednesse is committed; as those tell us that have
‘made triall of it. And a little after this hee addes, ‘This Sect of them that
‘whip themselves hath been divers times condemned heretofore a long time
‘agoe; and therefore seeing it begins to sprout againe and to increase, it ought
‘to be utterlie extirpated and beaten downe. In conclusion he saith, ‘Lastlie,
‘if this famous Doctour Mr. Vincent thinke perhaps he cannot convenientlie
‘and effectually provide for the premises with profit, it may seeme to bee the
‘safer way for him to absent himselfe for a time, by forbearing that societie:
‘which he may doe by visiting the sacred Council, or some other way. Writ
‘in the time of the Council of *Constance*, the year 1417.

¶ The epistle which he sent to this Mr. Vincent is put after this treatise,
where he saith amongst other things; *Beleeve mee, great and ancient Doctour,*
divers men speak diversly of your sermons, especially of this Sect of those that whip
themselves; which, as it is evident, hath beene condemned heretofore many times,
and in many places. Which you doe not approve indeed, as those that know you
doe affirme; but withall you doe not sufficiently disprove it, &c. At the end there
is this addition of *Peter de Alliaco* Cardinal of *Cambray*: *Reverend Sir, and*
most dear father, I have beene perswaded to exhort you in a charitable way con-
cerning the premises, together with my beloved brother and companion the Chan-
celsour of Paris. *Hee thus is*

Yours in all things,

P. Cardinal of *Cambray*.

CHAP. III.

Of Dispensations.



IT was expected from this Council, that there should bee some great reformation in point of dispensations, considering they generallie condemn'd an unlawfull power which the Pope assumes unto himselfe by reason of them; the great abuses committed in them, and the great complaints that were made of them. But behold, all our hopes are dash'd! there must bee no more talke of them if this Councell be admitted. That the Pope arrogates unto himselfe an immense and unlawfull power in this behalf, is out of all question. He pretends that hee can dispense above all law. For humane, that is taken for granted: but for divine laws *Gratian* restraines these dispensations to certaine cases. But *Innocent* the third sets no bounds to them; but tels us in generall termes, *That he can dispense with the law, above the law, by reason of his plenitude of power.* This text will bee alwaies understood according to the exposition of the Doctours and Practitioners, who hold that *the Pope may dispense above the law, beside the law, and against the law: that hee hath soveraigne power in all and above all.*

Popes presume
to dispense
with Gods
law.

*Caus. 25. q. 1.
§ fin. dist. 13.
in pr.*

*Innocent in
cap. proposuit.
extra. de Con-
cess. Præb.
Baldus.*

*Gratian. in
caus. 25. q. 1.
Can. ideo.*

*Gloss. in Canon.
Lector. dist. 39.
et in cap. Pro-
posuit. de Con-
cess. Præbend.
in Can. a nobis
in verb. exem-
plis de decimis.
Gloss. in 6. cap.
proposuit.*

*V. Centum gra-
vamina cap. 1.
et 2. in fascic.
rerum expen-
darum.*

2 But though he should challenge no more but the dispensing with humane laws, in all those cases specified by *Gratian*, it were no light matter. Our laws would henceforth scarce serve our turnes, neither the Decrees, nor the Canons. For, according to his opinion, the Pope is no way subject to them, but may dispense with them, and make new lawes. Our Glossatour upon the Canon law, avowed by the *Rota* of *Rome*, goes farre further; as that, *The Pope may dispense against the Apostle; against the old Testament; against the foure Evangelists; against the law of God.* When they come so farre in this, I leave you to imagine what they will doe in the rest; at this day especially when the controversie betwixt the Pope and the Councell shall bee decided. It will not need to put in that exception of the glosse, *That the Pope cannot dispense against the generall state of the Church.* For he being above it, and having full soveraigntie, when he shall make use of it, who will tell him, You are to blame? Especiallie considering our Sophisters maintaine now adaies, that all he does is well done, and that he cannot erre in that regard. Popes are not content to dispense onelie in their books, but they do it farre better in their practise; and that alwaies to their owne advantage. For these dispensations aime at two things, their profit and their greatnesse. *Germany* will tell us newes of them. As for the first, I doe not speake of the Protestants, but the Catholiques assembled at an Imperiall Diet at *Noremberg*, the year 1522: when they say;

3 Many things are forbid by humane constitutions, and many things also are commanded, which are neither commanded nor prohibited by the lawes of God: such are divers impediments of marriage by reason of affinitie, common honesty, spirituall and legall kindred, and consanguinitie in many divers degrees. Besides, the use of some meats is forbidden, which yet God created for the necessitie of men. These and many other such like humane constitutions bind men, so long till they can by their money purchase a dispensation from such lawes, of those that made

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The Popes a-
buse of dispen-
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them. So money makes that lawfull to the rich, which the poore cannot compasse gratis. And by such unlawfull bands of humane constitutions, there is not onely a huge masse of money drain'd out of Germanie, and transported beyond the Alpes; but a great deal of iniquitie is raised amongst Christians themselves, many offences and quarrels, when the poore perceive themselves caught in these nets, for no other reason but because they want the thornes of the Gospel; for so are riches talled, there. This complaint was presented to Pope Adrian the 6, when hee talked of calling that Generall Councell which was afterwards holden at Trent.

vid Fasciculum
rerum expe-
tend. p. 167. 6.

4 The same nation of Germany had drawne up a summarie of other grievances some years before, and presented them to the Emperour Maximilian. The first was this; As for the observance of Bulls, compacts, priviledges, and letters granted by their Predecessours without any limitations, the later Popes thinke they are not bound to them: but on the contrarie they transgresse them by frequent dispensations, suspensions, and repeals upon any mans entreaty, yea even of some base fellow.

Bonifac. in ep.
ad Zachar. Pap.
2. Tom. Conc. de
quo fit mentio
in Synodo.
Francica,

5 A certaine Archbishop of Germany, Legat for the See of Rome, asked Pope Zacharie what he should do about a dispensation which a German assured him he had got of Pope Gregory his predecessour, to marrie a woman that had first beene married to his uncle, and afterwards to a Cozen of his, from whom shee was divorced, and who was yet alive; besides, she was his kinswoman in the third degree, and had beene a Nun. We know not what answer he had; nor doe we here consider any thing but the injustnesse of the dispensation.

Bernard l. 2 de
considerat. ad
Eugen. Pap.

6 Saint Bernard, who lived in the year 1150, writing to Eugenius the third, complains bitterlie of these dispensations. *What? (you will say unto me) doe you forbid me to dispense? No, (saith he) but onely to dissipate. I am not so ignorant, but I know you are placed there to bee a dispenser, but to edification, not to destruction.*

Mathem Paris.
in hist. Anglor.
in Henrico 3.
p. 677.

7 The States of England being all assembled together in corps, in the year 1246, under Henry the third, put up divers grievances against the Pope, in a bill of complaint drawne by them, which wee read entire in the Historie of an English Monke, amongst which this is one; England is further aggrieved by the frequent comming of that infamous Nuncio, (non obstante) whereby the religion of oathes, the ancient customes, the validity of writings, the authority of grants, the Statutes, lawes, & priviledges are weakened and disannull'd. Inasmuch that infinite numbers of Englishmen are grieved and afflicted thereby. The Pope doth not carry himselfe so legally and moderately towards the Realme of England, in revoking the plenitude of his power, as hee promised by word of mouth to the Proctours at Rome.

Guil. Durand.
in tract. de mo-
do celebrandi
Conc. tit. 4. pri.
part.

8 The Bishop of Menda in Germandie, being commanded by Clement the fift to goe to the Generall Councell holden at Vienna in the time of Philip the Faire, made some pretty notes touching the point of reformation. Where speaking of dispensations he saith, *That the very nerves of the Canons and Decrees are broken by the dispensations which are made according to the stile of the Court of Rome; that they are against the common good.* And citing the authoritie of Saint Jerom writing to Rusticus Bishop of Narbon, hee saith, *Since avarice is increased in Churches as well as in the Roman Empire, the law is departed from the Priests, and seeing from the Prophets. We read also in the Decree (saith he) that Crassus was turned into gold, and that he dranke gold.* He gives us the definition of a dispensation according to the Lawyers; which he saith is a provident relaxation of the generall law countervailed by commodity or necessity: that if it be otherwise used it is not a dispensation but a dissipation: that the question is now about the staining of the face of the Church: that those who dispense upon unnecessary causes, erre. Lastly, for matter of dispensation hee would have that

that observed which Pope Leo said, to wit, *That there are some things which cannot be altered upon any occasion: others which may bee tempered in regard of the necessity of the times, or consideration of mens age: but alwayes with this resolution, when there is any doubt or obscurity, to follow that which is not contrary to the Gospell, nor repugnant to the Decrees of holy Fathers.*

Reformation in dispensations desired, but not obtained.

Can. Sicut.

dis. 14.

Conc. Constant.

Sess. 40.

9 All the nations of Christendome that were present at the Councell of *Constance* demanded the like reformation. For amongst other articles of reformation which were reserved for the latt course of the Councell, this was one, *Of Dispensations.* But *Martin* the fift made them take away the table before they had done their dinner, as we have said elsewhere.

10 Mr. *John Gerson* in his treatise *De potestate ecclesiastica*, saith; *What think you? what shall we say for the present of that so easie dispensation as they speake of, granted by the Pope and the Prelates over lawfull oathes, reasonable vomes, for the excessive plurality of benefices, the generall non-obstance of Councels, the privileges and exemptions against common right? Who can number all the wayes whereby the force of Ecclesiasticall, yea of Evangeliall, discipline is enfeebled, consumed, and quite annihilated? By my advice the holy Councell should provide for all these things.* And so it would have done, but Pope *Martin* was urged to goe to another place. Speaking of the deniall of justice, wee have said many things which may be referred to this place, but we will not repeat them.

Joannes Gerson in tract. de Eccles. potest. Confid. 12.

11 The Deputies of *Paul* the third, whom he appointed to advise him concerning the reformation of himselfe and his Court, begin with this article as one of greatest importance. Wee are of opinion (most blessed Father) that in the first place this law ought to bee observed in all things. That lawes bee kept as much as may be; and that we thinke it not lawfull for us to dispenſe with lawes; unlesse it be upon urgent and necessary occasion. For there cannot bee a more pernicious custome brought into any Common-wealth than the not observance of lawes; which our anceltors would have to be accounted holy, calling their power sacred and divine. You know all things, O best of Popes; you have read so in Philosophers and Devines: There needs no more but to put that knowledge in practice.

12 He that would fully informe himselfe of their practice and proceedings in this regard, let him read the faculties of the Legats which have come into *France* and other Countries: as also the Penitentiary tax, whereof wee have spoken elsewhere; and what Doctor *Esspenseus* saith of it upon the Epistle to *Titus*. The instructions of the Ambassadors and Oratours of the Emperour, the King of *France* and other Christian Princes, sent to the Councell of *Trent*, had this in charge also, to complaine of these scandalous dispensations, to the end that an order might be taken with them. See here enough to make them take them into consideration.

13 Let us now see the remedies they applied, being they were fully informed of the nature of the disease. In the seventeenth Chapter of the twentieth fourth Session they straitly prohibit the pluralitie of benefices, and that all unions, all dispensations to the contrary notwithstanding. But in another place they renew the Decretall of *Gregory* the tenth; which binds forsooth such as hold a pluralitie of benefices to exhibit their dispensations unto the Ordinary, to make it appeare: Now if they be sufficient, the Ordinaries have no more to say. Yea in case the validitie of them be doubtfull, recourse must be had to the Pope, for the manifestation of his pleasure. In another place having religiously forbid hereditary successions in Bishopricks, which have beene alwayes condemned, at last they admit of them in certaine cases; but with cognizance of the cause, which they attribute to the Pope. They make one or two faire Decrees concerning the residence of Bishops; but they give the Pope power to approve the causes of their absence, and upon that occasion to punish those

Concil. Trid. Sess. 24 cap. 17. in aliis Sess. 8. Can. 17. Concil. Trid. Sess. 7. cap. 5. In aliis Sess. 7. Can. 5. Sess. 25. cap. 7. de reform. in aliis Sess. 9. Can. 7. V. Iuvonem in Epiſt. Sess. 6. cap. 1. de ref. Et Sess. 23 c. 1.

Abuse of di-
spensations un-
reform'd by
the Councell,

Stanislaus Ho-
fium.

Sess. 6. cap. 1. et
Sess. 23. cap. 1.
In aliis Sess. 7.
Concil. 1.

whom he shall thinke good, even to deprive them of their Bishopricks, and put others in their place. In the twentieth Chapter of the last Session, they leave Commendams in their full force and vigour; howbeit they made semblance that they would abolish them in the 17 Decree of the twenty fourth Session. They were desired so to doe by our Kings Oratours, as wee have said in the proper place. But all this was neither here nor there: For lay men must meddle with other matters, as one of the Presidents of the Councell said. But see here that which makes all fadge! We must set downe the whole Chapter, the better to collect the sense of it. *That such dispensations as shall bee granted by what authority soever, if they must bee referred from the Court of Rome, let them be referred to the Ordinaries of them that obtained them: and that such as have bin freely granted do not take effect, unlesse the Bishops, as delegates for the See Apostolique, have the cognizance of them, and that it appear unto them presently, and extra judicium, that the prayers and entreaties therein expressed are not lyable to the fault of subreption or obreption.*

14 This Decree hath two parts, the one as commendable as the other. The first speaks in general of all dispensations, and tacitly by necessary consequence permits the Pope to use them. For it were to no purpose to provide for the ordering of them, unlesse they were permitted. Yea from that distinction which is made of them, we collect that the Pope commits the cognizance of them either in Rome or out of Rome. What is it then which is here decreed? that such as goe out of Rome shall be committed to the Ordinary of those to whom they are granted. *Item*, this is all. See now we are well satisfied. Of all those so many kindes of dispensations as are in the world, an order was taken with those touching pluralitie of benefices, touching hereditary succession in them, and touching the residence of Prelats. And so as we have heard concerning the rest. This is the law, this is the reformation. So that provided the Ordinarie lose not his right of reference, all the world must rest content, and the Pope as well as others. But the second part is the prettiest of all. They leave the Pope power to grant out gracious dispensations, provided that hee referre the cognizance of them to the Bishops. What to doe? onely, as his Delegates, to try whether there be any obreption or surreption in them; that is, whether his Holinesse were not cheated by false information. For in this case he may give way to the impairing of his rights.

15 See then here are three things which we complaine of. First, the approbation of gracious dispensations; and the power of granting them, which is left to the Pope. The second is the delegation which he must make unto Bishops; seeing it is a meanes to draw the inhabitants out of the realme, or at least to constraîne them, in case of suit and controversie, to demand some other delegates *In partibus*. The third, that these Delegates may not judge of the lawfulnessse or unlawfulnessse of the dispensation, but onely of the cosenage which the petitioners may have used towards the Pope. Seeing these Sirs have made such sleight enquiry into the meanes of remedying those evils and inconveniences which arise from dispensations, we are dispensed with their inordinate ordinances. And therefore it will concerne us to stand to our liberties, by virtue whereof the Pope cannot dispense, for any cause whatsoever, with that which is of the law of God or nature; or with that wherein the holy Councils doe not allow him to dispense. And to that which is set downe in this point by the Ordinances of our Kings; which expressely forbid all the Judges of the land to have any regard To dispensations granted contrary to the Sacred Decrees and Councils, upon paine of losing their places: and declare furthermore, *That such as procure the said proviso's and dispensations, shall not make use of them, unlesse they get leave and permission from his Majesty.*

Chap. 3. de la 2.
part. des libe-
tez de l'Eglise
Gallicane.
Art. 22. de l'or-
don. des Estats
d'Orleans.

CHAP. IV.

Of Vnions of benefices.



THe Council leaves the Vnions of the benefices to Popes disposall; at least such as are perpetuall: for having made some rules concerning them, it addes this clause, *Unlesse it be otherwise declared by the See Apostolique.* The like may bee said of personall Vnions, whereof the Pope may dispose at his pleasure, by virtue of that clause, *Saving the Popes authoritie in what concernes manners and Ecclesiasticall discipline.* So then hee may make them at his will and pleasure, and no abuse which he can use therein be subject to censure: For from what hand can it come? In the meane time see here a notable prejudice to all Christendome, and which continually tends to the augmentation of this Papall power, in attributing unto him the power of other Bishops, to the end that all may depend upon him.

2 In the Canon law it is said that Bishops may unite Churches. Seeing then it belongs to their ordinary jurisdiction, it is a wrong to them to take this power and facultie from them, to bestow it upon the Pope. To whom, it is true, so much honour hath beene yeilded in *France*, as to receive his Bulles, whereby they proceed to the union of benefices, provided they be not personall; and for the other, that they be granted after full cognizance of the cause, and upon very iust and lawfull reasons. And which is more, it is not sufficient that those causes bee knowne to the Pope alone, that they bee declared in his Bulls, but hee is bound to send out his writs of delegation *In partibus*, for the effecting of the said unions, with cognizance of the cause, and consent of the Patron, and such as are any way interested in them. Which is as much as to give the power and authoritie to the Bishops, reserving the honour to the Pope: as appeares by the Collection of the liberties of the *Gallicane Church*. See here the very words of it, *The Pope cannot make any unions or annexions, of the livings of this Kingdome, during the life of the Incumbents, nor at other times: but he may grant out writs of delegation concerning unions; which is conceived to bee done according to the forme prescribed in the Councell of Constance, and not otherwise: and this with the consent of the Patron, and such as have any interest in them.*

Who may
make Vnions.

*Gloss. in Can.
& temporis in
verbo, Unire.
Caus. 16. q. 1.
Et sap. Unire.
extra de excess.
Pralat.*

3 In the fortie third Session of the Council of *Constance*, it is said that those unions shall be void which are not made, *ex veris & rationalibus causis*, upon true and reasonable causes. This is the forme which the former Article speaks of. If they be made otherwise, an appeale is put up to the Parliaments of this Kingdome to stop the execution; who have oftentimes cassed and disanull'd such like Bulls upon such occasions; and that without any regard of the lapse of time, or any other prescription; as appears by the testimony of our common Lawyers of *France*, and by the Arrests which have beene granted out. So by an Arrest of *Paris* of the 17 of February 1547, the union made by the Bulls of Pope *Clement* the sixth, with the counsell of his Cardinals, and a Commandery of *St. Lazarus*, and another Commanderie of *St. John of Jerusalem*, was cassed and declared to bee void, upon the Appeal as from abuse, exhibited by the

*Renatus Chop-
pinus de sacra
politia. lib. 2.
tit. 6. nu. 7.
rapon. l. 3. tit.
8. art. 4.*

Unions granted by Popes, annulled by Parliaments.

Idem Choppinus ibid.

maister of the Order of St. *Lazarus* a hundred years after; and that because it had been made without any just cause.

4 The union of the benefice of St. *Saviour*, with the Church of St. *German Lauxerrois* in *Paris*, made in the year 1456, by virtue of the Bulls of Pope *Calixt* the third, was likewise disannulled by an Arrest of the Parliament of *Paris*, of the first of Aprill 1560, and so above an hundred years after. Although by the said Bulls there was a commission *In partibus*, directed to a certaine Counsellour Clerk of that court of Parliament. And this because it appeared to the Court that that union had not been grounded upon any sufficiently just and necessary cause.

Choppinus ibid.

5 Another union of divers livings, with the Church of *Tulles* in *Limousin*, made by virtue of the Bull of Pope *Leo* the tenth, in the year 1513, was declared to be abusive by an Arrest of the Court of Parliament of *Paris*. And another besides, of divers benefices with the Priorie of *Limoges*, by an Arrest of the grand Councell, of the 13 of March 1559. Pope *Innocent* the eight had united the parish Church of *Blonn*, with the Chapter of the Cathedrall Church of *Limoges*, by his Bulls of the 19 of March 1488, upon very colourable and apparent grounds, as appears by the Bull, which a learned person of our times hath inserted in his works entire. But notwithstanding all his faire narration, it was annulled fourescore years after by an Arrest of *Paris* of the last of Aprill 1575, upon the Appeale as from abuse, which was exhibited against the execution of it, for defect of a Commission upon the place.

6 Another Bull had been granted by Pope *Alexander* the sixth, in the year 1500, for the union of the Parish Church of *Domay*, with the Chapter of the Cathedrall Church of the same place, which is quoted by the same authour. But the Parliament of *Paris* upon the Appeale as from abuse, exhibited by the Curat of *Domay* to stop the execution of it, disannulled the union by an Arrest of the 1 of May 1575, because there wanted a writ for a Commission *In partibus*. Divers other unions besides have been declared to be abusive, because they were made without the consent of the Lay Patrons; and the Bulls have been annulled as well by the Parliaments, as by the Grand Councell.

Rebuffus in praxi benefic. de union benef. num. 28.

Papon lib. 3. tit. 8. art. 2. Concil. Trid. sess. 7. cap. 6.

7 Now the Councell of *Trent* hath derogated from all these Arrests and others of the like kind: first, whereas abusive unions may be disannulled without any regard to prescription or tract of time; by this Councell prescription of fourtie years is approved, unlesse it be in case the Bulls were obreptitious, or subreptitious, that is, unlesse the Pope had false information; whereas by the foresaid Arrests no prescription is considerable. As for the other which have been made within fortie years, it is said indeed that they ought not to be valid, unlesse they were made upon just cause, and those whom it concerned were called before the Ordinarie of the place; but it is presently added, *Unlesse it be otherwise declared by the See Apostolique*. So that by this meanes all depends upon the Popes pleasure.

Concil. Trid. Sess. 7. cap. 6.

CHAP. V.

Of the residence of Bishops, and approbation of the causes of their absence.

IT was usefully ordained by this Councell that Bishops and other Prelats should reside upon their Bishopricks and prelacies: But yet when all comes to all, there is a dash with the pen that spoiles all; for the judgement to bee passed upon non-residents, is reserved to the Pope. It is he too that must dispense with their absence, and approve the causes of it. These three points are specified in the Deerees of the Councell: so that the authoritie both of Metropolitans and Princes is devolved upon the Pope. And hee that considers all shall find that Kings and Princes suffer a mightie prejudice by this meanes. They shall not have the power to aid themselves with so much as one Bishop for the affaires of their State, and have them neare their person to take their counsell and good advice, unlesse the Pope please.

Popes unlawfully dispense with Bishops non-residence.

Concil. Trent.
Sess. 6. cap. 1.
C. 2. C. 8. Sess.
23. cap. 1.

2 This is not all. The Popes will take order well enough, that there bee ever some to depend upon them, and such as may bee their creatures; so that as many Bishops as are neare to Princes, so many enemies to them. They will bestow whom they thinke fit in other places, to contrive plots and projects; get them to *Rome*, to make their abode there so long as their busines requires; traverse the Provinces; reside where they shall thinke expedient. And in case that either upon the Princes command, or upon any other occasion, one of these Bishops shall venture to absent himselfe, by virtue of this Councell the Popes shall have power to deprive him of his Bishopricke, and put another in his place; for that is said in expresse termes.

Concil. Trid.
Sess. 6. cap. 1.

3 By the lawes of the ancient Emperours, a Bishop might not absent himselfe from his Bishopricke, without the leave of his Metropolitan, or the command of his Prince. *Justinian* decrees thus, *Wee forbid Bishops to leave their owne Churches and goe into other Provinces. But if so bee there bee any necessitie of so doing, they shall not goe without the Patriarch or Metropolitans letters, or without the command of the Emperour.*

Novell. Justinian. 123.
De Sanctiss. Episcopis. 9.

4 Our Kings of *France* have alwaies reserved this authoritie and prerogative unto themselves, to determine of the residence of Bishops; to compell, or cause them to bee compeld by their officers, to feed their flocks, and wait upon their Churches when need required; and that by sealing upon their temporals: to call them from *Rome*, to returne into *France*: to dispense with them and approve the causes of their absence. We will quote some passages to this purpose.

5 *Lewes* the eleventh in an Ordinance of the eight of January 1173, makes this narration. *When any questions or differences come upon us, as well concerning the state of the Church of our Kingdome, as other our affaires, we that ought to have recourse to them, cannot be assisted, aided, or advised therein by reason of their absence, where wee and the Common wealth are oftentimes much interested.* Then after he ordaines in this manner; *Wee will, ordaine, and declare by these presents, that all Archbishops, Bishops, Abbats, Prelats, and others, that hold*

Voyez le recueil du Fantanon les grandes Ordonnances Tom 4. tit. 2. ca. 1.

any

Princes to determine of residence.

any dignities within our Kingdome, and do dwell and reside out of the bounds and limits thereof, and out of our obedience, doe repaire and returne within five months after the publication of these presents, unto their benefices within our said realme, or unto some one of them if they have any more; and there make continuall residence, there to celebrate and continue divine service, as belongs unto them, and as they are bound to doe. As also to the end that they may serve and assist us in our Councils and otherwise, to the behoofe of us and the Common wealth of our said Kingdome when need shall be. And this upon paine of being deprived of the temporals of their said benefices.

Ibid cap. 2. tit. eod.

6 Henry the second in an Ordinance of the first of May 1557, directed to the Court of Parliament of Paris. Wee command, charge, and enioyne you by these presents, that in our name you enioyne all Archbishops Bishops, Prelats, Curats, and others that have cure of soules within our jurisdiction, to retire every one to his Archbishopricke, Bishopricke, Cures, and other livings, and to make personall residence upon them, and to preach and declare, or cause to be preached and declared the word of God, &c. And where they shall refuse so to doe, that you cause the fruits, profits, and emoluments of the said Benefices to be distrained and seised into our hands.

Ibid tit. eod. cap. 3.

Ordonnan. d'Orleans de l'an 1560. art. 5.

7 Charles the ninth by his Ordinance of the first of Aprill 1560, ordained the very same thing, both for residence and for the disseisin of temporals, but with this exception: Saving and excepting the Archbishops and Bishops that are of our Privy Counsell, and others imployed in our service out of the Realme for the weale publique thereof, during the time that wee shall make use of them: whereof our Bailiffs and Stewards or their Lieutenants of that jurisdiction where the said Archbishopricks and Bishopricks doe lye, shall give us notice presently after. The same Prince in the fift Article of the Ordinance of Orleans doth enact, concerning Archbishops, Bishops, Abbats and Curats, that have many benefices, That residing upon one of their benefices, and doing actual service there, whereof they shall make good prooffe, they shall be excused from residing upon their other livings.

Ordonnance de Blois de l'an 1579 art. 14.

8 But see here a thing to be observed! namely, that the States of Blois holden in the yeare 1579, knowing the prejudice which this Councell had done to the liberties of France in this regard, thought it reasonable to provide otherwise for the approving of the causes of non-residence than it had set downe. For it is enacted in the fourteenth Article of the Ordinance made by King Henry the third, upon the complaint of the said States, That all Archbishops and Bishops shall be bound to reside upon their Churches and Diocesses, and according to their ability to discharge their duties in person. From which residence they shall not be excused but upon just and reasonable causes, approved by law, and such as shall be certified by the Metropolitan or senior Bishop of the province. Otherwise if this be not done, besides the penalties ordained by Councils, they shall be deprived of all the fruits issuing in the time of their absence. Which shall be seised and taken into our hands, to be imployed in the reparation of ruinous Churches, almes to the poore of the places, and other charitable uses. By this Ordinance the Metropolitan gives the certification, and the Kings officers the judgement in causes of absence, without reserving any thing to the Pope. Nor is this law peculiar to our Kings, but common to them with all other Princes, as it shall appeare by what we shall speake of it in another place.

CHAP. VI.

Of the frequency of Councils.



It is a great advantage which the Pope hath got, that there must bee no more Generall Councils but when hee pleaseth. For loe here the Decree of our Councell! If it chance that there bee any things (which it thinkes there are not) that require further declaratiō or determinatiō, besides other remedies appointed in this Cōncel, the holy Synod trusts that the most blessed Bishop of Rome, either by calling forth those whom he shall think most fit to treat about such a businesse, out of those Provinces espe-

Councils to be held every ten years.

Concil. Trid. Sess. 25. vers. finem.

cially where such difficultie shall arise, or by the celebration of a Generall Councell, if he thinke it needfull, or by any other more commodious way as he shall think good, will take care that the necessities of the Provinces be provided for, for Gods glory and the Churches peace,

2 This is all one as to make the Pope past breeching, past tutoring and correction: to take away that frequent celebration of Councils, and leave the convocation of them to their courtesie is as much to give the rod where-with the master hath whipt him, into the Schollers hand, to doe what he please with it. The Popes when they were monstrously debauched in a monstrous fashion, and given over to all manner of vices, abominations, and impieties, were curb'd and brought under to some discipline by the Councils of Pisa, Constance, Siena, Basil, Lausanne, and the second of Pisa. Where many of their Popes were deposed: where many good rules were made for the holding of Councils, tending principally to the reformation of the abuses of the Pope and Court of Rome: where it was religiously ordained that Generall Councils should be called and celebrated every ten yeares: and that in such sort as the Popes might not prolong the terme, but might abridge it if need required. See here the very words of the Decree of the Councell of Constance. 'We ordaine and decree by this perpetuall Edict, that from this time forwards Generall Councils shall bee holden in this manner. The first that shall be held after this shall be within five yeares next following, and the next after that within seven yeares immediately, reckoning from the end of the former; and alwayes after from ten yeares to ten yeares for ever. And afterwards. 'Which terme the supreme Bishop may abridge upon some occasions which may come to passe, with the advice of his brethren the Cardinals of the holy Church of Rome, but he may not protract it in any wise.

Conc. Constant. Sess. 39.

3 This same Decree is set downe word for word in the first Session of the Councell of Basil, and confirmed by it. And in the eleventh Session is added this exposition of it. This holy Synod doth further declare that these words of the Decree (That it cannot be prolonged in any wise) ought to bee understood by way of forbiddance or prohibition, in such sort as it cannot bee prolonged even by the Pope himselfe. It is the third time repeated and confirm'd in the sixteenth Session. These same Decrees of these two Councils are transcribed word for word into the second of Pisa at the beginning, and confirmed by it. Antiquity shewes

Concil. Basil. Sess. 1. & 11.

Conc. Basil. Sess. 16.
Conc. Pisan. 2. in princip.

The benefits of Councils.

shewes us plainly that after the Christians were at liberty, Generall Councils were very frequent.

Conc. Constant. Sess. 39. Idem in aliis supradictis.

4 The fruit that springs from the frequency of these Councils is recommended unto us by the Decrees above-mentioned, where it is said, *that it is the principall tillage of the Lords field: that it extirpates heresies, schismes, errors: corrects excesses: reformes what is amisse: makes the vineyard of the Lord fertile.* Whereas the cessation of them on the other side produceth quite contrary effects; as it is there delivered, with this addition, 'That the memory of times past, and the consideration of the present, made them eye-witnesses of it. Whereunto we will adde the testimony of Mr. John Gerson. 'There never was heretofore, nor ever will bee hereafter a more pernicious plague in the Church, than the omission of Generall Councils, whether in the matter or in the authority. And in another place. 'If so great and such enormous dangers have befallen the Church of God, since the celebration of Generall Councils hath beene intermitted, it is easie to see how usefull and commendous the frequent celebration of them would be.

Iohān. Gerson de eccles. potest. Considerat. 10.

Idem in serm. pro viagro Regis Romanorum in fine.

5 He is a very novice in the history of later times, which knowes not the shifts and evasions which the Popes have used about the holding of Generall Councils, even after they have by solemne oaths bound themselves to hold them; and the wiles they have used to disannull and dissolve them; the bickerings and disputes they have had with Councils themselves about that matter; whereof we make mention in divers parts of this discourse. The same Gerson witnesseth as much, in saying that the Popes abuse the plenitude of their power, in that they will not celebrate Generall Councils.

Aventin. lib. 7. Annal. Boiorum

6 Everard Bishop of Salisbury in an Imperiall Diet of Germany holden about two hundred yeares agoe, speakes thus of this matter. *He that is the servant of servants desires to be the Lord of Lords, as if he were a God: hee sleights sacred assemblies, and the advice of his brethren, yea of his masters: he is afraid lest he should be constrain'd to give account of those things which he commits daily more and more against the lawes.*

Franciscus Zabarella in tract. de Schismate.

7 Zabarel Cardinall of Florence, who writ a little before the Council of Pisa, saith: 'The ancient custome was that all difficult cases should bee determined by a Council, the convocation whereof was frequent. But in after times certain Popes, that have governed the Church rather like earthly Princes than like Apostles, never tooke any great care to call them. From which neglect hath sprung much mischief.

Iacob. de Paradis. in lib. de septem statib. Ecclesie.

8 Jacobus de Paradiso saith, 'They tremble to heare any man speake of the calling of a Generall Council: knowing by experience that Councils doe not deale gently, but correct and amend without respect of persons. And indeed the Emperours and Princes, who in these later times had quite let goe the reins of Ecclesiasticall discipline, through ignorance of their right, were forced to resume their authority, and proceed to the convocation of Councils against the Popes will.

9 So that it is but a cheating of Christendome above board to leave the judgement of the necessity of Generall Councils to the Popes will and pleasure; abolishing by this meanes the good order established by the Councils aforesaid, which was received and confirm'd by our Pragmaticque Sanction; where the said Decrees are transcribed word for word. Which gave occasion to King Charles the ninth to require by his Ambassadors at Trent the celebration of Generall Councils every ten yeares, as appears by his demands to which no regard was had, because this intrencht upon the Popes authority, who by this kinde of suppression of Generall Councils hookes all the power of them unto himselfe.

CHAP. VII.

Of the Iesuites.



The Order of Iesuits, instituted by the two Popes Paul and Julius the third, the authours of this Councell, is confirm'd and authorized by the Councell it selfe: which tends wholly to the exaltation of their authoritie, and strengthening of their power; as shall appeare by such reasons as wee shall urge, taken out of their owne writings. The maine vow whereunto they are bound by their institution is that of obedience. Heark what

Iesuites the
Popes vassals.

Loiola their founder saith of it in a letter of his which hee writ in *Italian* to the Fathers of *Portugal*; Wee easily endure to bee outdone by all other Orders, in fastings, watchings, and other hardneses, which they use in a holy manner, according to their institution: but in puritie and perfection of obedience, I earnestly desire that you would surpasse all the rest; with a true resignation of your owne will, and a denyall of your owne judgement. Now this vow looks full upon the Pope, to whom they commit themselves both soule and bodie, to bee no more their owne; not to beleeeve their owne sense, their judgement, their understanding, their prudence, and counsell: but to dispose of, and submit themselves totally to him, to goe, come, doe, say, execute upon all and against all, whatsoever hee shall command them. The forme of their vow, which I am about to insert, shall serve for prooffe of my assertion.

2 As many as shall make profession in this Societie, let them not only know before they make it, but remember as long as they live, that all this Societie in generall, and more particularly those that are professed in it, serve God under a faithfull obedience to the most holy Father Pope Paul the third, and other Popes of Rome his successours. And although we bee taught by the Gospel, and doe know by the Orthodox faith, and firmly hold that all the faithfull people of Christ are subject to the Pope of Rome, as to the head and Vicar of Jesus Christ: yet notwithstanding for the greater devotion to the obedience of the See Apostolique, and the greater denyall of our owne wils, and the more certaine direction of the Holy Ghost; wee have judged that it would bee very commodious that every one of us, and all those that shall hereafter follow the same profession, besides the common tie of the three ordinary vowes, bee bound hereunto by a more spectall vow; to wit, that whatsoever the present Pope, and all others hereafter for the time being shall command, for the good of foules, and the propagation of the faith, into what countrey soever they shall please to send us, that we be bound to performe their pleasure immediatlie, without any tergiversation or excuse, for as much as lyes in our power: whether they bee aminded to send us amongst the Turks, or other infidels whatsoever, yea though it bee even unto those that are called Indians: or among heretiques and schismaticques whosoever they bee, or among Christians. Now these missions and delegations must depend upon the Pope alone, and next to him upon their Generall. And to the end that no ambition nor refusall may take place amongst us by occasion of these deputations, and elections of Provinces, let

Hac ex Bulla
Julii 3. qua
confirmatur in-
stitutio & sta-
tura Iesuitaru,
que extat in
cap. 21. lib. 3.
de vita Ignatii
Loiole noviter
excusa Lugdu-
ni apud Jaco-
bum Roussin.
Ann. 1594.

Ibid pag. 334.

The Pope de-
fyed by Je-
suites.

every one know that hee need not trouble either himselfe or others about it, nor take thought for it; inasmuch as all the care thereof must bee left to God and the Pope, as his Vicar, and to the Generall of the Societie.

3 Being obliged unto the Pope by such a vow as this, they are bound to doe whatsoever he shall command them. And albeit their sense and reason should dictate unto them that his command is unjust, they are bound not to beleeve them, but to referre themselves wholly to him. Nay there is yet more; that is, that it is not lawfull for them to imagine that any error or impietie or injustice can come from the Pope; but all religion, zeal, devotion, equitie, and truth. Behold their maximes! That the Pope cannot erre in matters of faith; nor in precepts of manners which are commanded to the whole Church, and which consist in things necessary to salvation, or such as are of themselves good or bad. Item, that it is probable and may be piously beleeved, that the Pope cannot erre as Pope; yea and that as a particular person he cannot be a heretique, by beleeving with obstinacie any error against the faith. See yet a third, If any man examine the doctrine of the Pope by the rule of Gods Word, and seeing that it is different, chance to contradict it, let him bee rooted out with fire and sword. Afterwards they make a particular enquire into the life and doctrine of all the Popes that ever lived; and maintaine that not one amongst them ever erred, that they were all holy and honest men. Besides, it is said in the Articles of their institution, confirmed by the Popes Bulls and inserted in them, that they are bound to acknowledge *Christum velut presentem*, (Christ as present) not onelie in the person of the Pope, but also of their Generall.

4 Let any man of sound judgement judge now if they can deny it, whether their soules be their owne; whether they can avoid the Popes injunctions and commands, or excuse themselves from them in any wise; whether they can presume that hee will cast them upon sinne, though the thing hee command them be a crime or offence. Whence we must necessarily conclude, that if the Pope be an honest & peaceable man, such a one as Clement the eight now reigning, to whom France is so much obliged, is supposed to be, they will bee so too. So it is seene in effect that at this day there are some doves, some maidens, some sheepe: that they help to establish the edict of pacification, that they peaceable converse with those whom they account to bee heretiques: that they admit their children into their Colledges, with protestation to leave them to the liberty of their consciences. But on the contrarie, if a Boniface the eighth, a Benedict the thirteenth, a Julius the second, a Gregorie the fourteenth, or a Sixtus the fifth should bee alive againe. What should become of France that hath so many Janizaries or emissaries upon her hands, so many enemies within her bosome, so many wormes within her bowels, which gnaw her within, and teare in pieces her noblest members? Can the Prince live secure if that saying of an ancient be true, that he which cares not for his owne life is the maister of another mans? Can hee escape a dismall blow, having in all parts of his Kingdome some persons that upon the least whistle will run some to their knives, some to their swords? which will arme themselves with fraud, and treacherie, and perfidiousnesse? which will make underhand plots and projects? which will seduce his subjects, and draw them from his obedience? will pronounce him a tyrant, an heretique, a schismaticke, how good, how religious, how Catholique soever hee bee? Let not my words bee credited, but the examples which have beene seene of it: let a man fancie to himselfe France all covered with bloud, and fire, and flames; let him remember how the Popes opened the veine, how they lighted the candle, how they sung the *Te Deum* at the murder of our Kings: how they would have turn'd our state topsie turvie; that they gave the greatest blowes to it: that the champions we speake of did wonders there and made their names immortall.

Bellarmin. in 3.
Controv. de
summo Pontif.
l. 4. c. 5.
Ibid cap. 6:
Jesuita in cen-
sura Colonienfi.
fol. 136.
Bellarmin. ubi su-
pra. c. 8. et seq.
Eadem Bulla
Julii 3. que
extat l. 3. de vi-
ta Ignatii. c. 21.
pag. 335.

5 Great Prince, your Majesty needs not feare any of this, being protected by the particular care and extraordinary favour of God, which overshadowes it, and makes it redoubtable to all your enemies, for your valour, your power, and your trophees, being cherished by a *Clement* truly clement. But Sir, what shall become of your poore posterity? what hope of safety doe you leave to them? what meanes of refuge, having therat in the bag, the serpent in the bosome, the powder in the pistoll, or, to speake more properly, in the foure corners of *France*, to which an *Inclement* will easily give fire? But I come to their maxims. They being servants and slaves to the Pope, cannot bee good subjects to their Princes: for they professe themselves exempt from their subjection, and avouch as much of all other Clergiemen to make their party the stronger.

Jesuites doctrine against Kings.
He speaks to Henry the 4.

6 See here an Aphorisme which *Emanuel Sa* the Jesuite sets downe in his booke intituled *Aphorismi Confessariorum*, printed at *Anvers* the yeare 1599, and afterwards at *Paris* this present yeare 1600, after he had studied the point forty yeares, as he professeth in the preface. *The rebellion of a Clergyman against the King is no treason, because he is no subject.* For as much as they make profession of this rebellion, they provide for themselves beforehand by such like axiomes as these. They make maxims in State affaires, even such as respect the persons of Princes, and occasion their subjects to make conspiracies and enterprise upon their lives. Loe here one. 'He that governes the Realme or Dominion, which he hath justly got, in a tyrannicall way, cannot be deprived of it but by a publique judgement. But the sentence being once past, any man may be the executioner of it. He may be deposed even by the people that have sworne perpetuall allegiance to him, if he doe not amend after he hath beene admonished. But he that tyrannically usurpes the government, may be killed by any of the people, if there be no other remedy, for hee is a publique enemy. See here another of the like straine. 'The Prince may bee deprived of his dominion by the common wealth, either for his tyrannie, or if he doe not doe his dutie, or if there bee any other just cause, and another may be chosen in his stead by the major part of the people.

Emanuel Sa in verbo Clericorum.

Idem in verbo tyrannus.

Idem in verbo privilegium.

7 Let every man bethinke himselfe whether these Maxims have not been practised in our *France*: and let him adde to all this the excommunication of a Pope incensed against some Prince whom he will declare by his Bulls to bee a tyrant, or heretique, and he will easily judge whether he that shall be pronounced such ought hereafter to thinke of any thing but the sepulchre of his ancestors, to procure that he may obtaine it at least. In my opinion if our Jesuites deny to speake roundly, and say 'tis a meritorious worke to kill him, it is lawfull for any man to execute the sentence: Yet this is the doctrine which they teach their disciples; confessed by *John Chastel*, registered in the Arrest of this venerable Parliament of the 29 of December 1594, the words are these. *Hee said at the same examination that it is permitted to kill Kings, and that King Henry the fourth now reigning, is not in the Church till such time as hee hath got the Popes approbation.* Confessed likewise by *William Parry* executed in *England*. Confessed by *Peter Panne*, the Jesuits of *Dowayes* emissarie to assassinate Prince *Maurice*, giving unto the Governour or Rectour of that Colledge the honour of that doctrine which he had learned from him. Maintained in a publique writing made by *M. Allen* Principall of the Colledge of the Seminary at *Rhemes*: declaimed in their ordinary talke, in their solemne orations: whispered in the eares of those that come to them for absolution, and infused into their soules; as it is declared by those true discourses made upon that subject by the finest wits of *France*.

8 Let us run over the other maxims which concerne the present state of this Kingdome, and judge whether they tend to peace and quiet. If Luther

Jesuites doctrine pernicious to the

State.
Censura Coloniensis Jesuitarum fol. 136.

(say they in their Cullen censure) had beene rooted out by fire and sword fortie yeares agoe, or if others had beene so dealt with, peace might by this meanes be restored to the Church.

9 Father Emond, in a booke of his printed at Paris by Sebastian Nivelle the yeare 1568, and by him dedicated to King Charles the ninth, with this inscription,

The Pedagogue of Armes,

To instruct a Christian Prince to undertake a good warre well, and accomplish it with successe, to be victorious over all the enemies of his State, and of the Catholique Church,

gives us other rules which have beene put in practice. See here some of them.

Le pedagogue d'Armes

10 That warres have beene alwayes accounted not onely profitable, but necessary.

Chap. 8.

Chap. 9.

11 That the Pope is bound to take armes against heretiques.

12 That to a Monarchie undertaking such a warre, a man cannot urge any of his former Edicts or Ordinances.

Chap. 4.

Fol. 13

13 That no man how potent soever he be, can contract with an infidell, or one that hath revolted from his conscience. Hee gives this reason; For what King is there, how redoubted soever he be, that can (without villainously falsifying and breaking his oath made to God) permit and give leave to the enemies of all truth, and condemn'd by the generall sentence of all the world, to sow heresies in his countries, and allure soules? Hee addes further, That what conditions of peace so ever he can grant unto his rebels in this case, will not endure long: But it will be-hove him not to awake such strong and potent enemies; that to make a peace with them at last, hee must resolve to make a good warre. And anon, As oft as by the Articles of peace, licence is granted to every man to adhere to which of the two opposite parties he please, without being offended at it, it is all one in my opinion, as if one should cast a man into the fire and forbid him to burne himselfe.

Fol. 1

Chap. 7.

Fol. 24.

14 In the seventh Chapter he saith, ' If such persons were infidels or heretiques, I would never excuse the Monarch, that, having sufficient means in his owne hands, should not essay by all wayes, even of fact, to reclaime such a kennell, or drive them farre out of his countrey, out of the territories of Catholiques. And so much the more roughlie ought he to proceed against them as hee knowes them perverse in all respects, and of the Huguenots stamp, which should be accounted the most pernicious, most devillish upholders of lies that ever rose up against the Church.

Chap. 9.

Fol. 31.

15 After he hath put weapons in the Princes hands to destroy his subjects, hee suggests reasons unto him, whereby hee may repell all such as would make him alter his designe. ' This being well and piously considered, the Prince will finde in his heart sufficient reason to assure him of the holynesse of the enterprise: without resting upon the remontrances of those seditious rebels, grounded it may be upon some Edicts, which by the policie and subtiltie of bad counsellours, they have obtained of his Majestie to let them live at libertie. But hee must answer them with a deliberate and resolved gravitie, that if a man by reason of the hardnesse of the times have committed one fault against his will, there is no reason he should commit two. But that they which are the cause that makes him take armes, should dearly buy the follie of their rashnesse. And a little below, ' But if they grow franticke, and obstinate in their wickednesse, they must resolve to endure from him such violence and roughnesse, as shall bee scene upon them and their posteritie for ever: they must blame themselves as guiltie of the persecution which he hath raised. But

Fol. 32.

' if

‘if he doe not cleanse his realme from such an infection and stench, let him not
 ‘thinke ever to see the face of his soveraigne Lord God. Hee hath sufficient
 ‘authority to correct a sacrilegious Ordinance, and pernicious to all the world,
 ‘by a good and just law. Wee could yet bring more of this kinde, but here is
 enough.

Jesuites bani-
 shed France.
 Fol 33.

16 It will be answered, It is but one or two of the Iesuites that have said
 thus: that the whole Order should not bee blamed for it: that there are some
 among them that preach peace. But observe here a very pat replie; That none
 of them intermeddles any thing with such matters, but by command from their
 Generall, which prescribes each of them his function, and the Generall com-
 mands nothing but what is enjoined him by the Pope, whose oracles hee re-
 ceives at Rome without budging a foot from him. It is one of the rules of their
 institution. *For lest any might use zeale, but not according to knowledge, let
 the judging of what degree every man shall be, and the designing and distribution
 of offices, be wholly in the power of the Generall, or Prelat, which shall bee appoin-
 ted by us any time whatsoever, or of those whom hee shall substitute with such au-
 thoritie.*

In eadem con-
 stitutione Julia
 3 que extat in
 ca. 21. li. 3. de
 vita Ignatii
 Loiole.

17 Let us yet set down one most true maxime, but which is as much or more
 verified in fact as in writing, and then an end. That the Iesuites applie all their
 divinitie to overthrow the States of Kingdomes and Principalities, to make
 them change their maisters. The Arrest of Paris, given by the great Chamber
 and the *Tournelle* in full assemblie, calls them *Enemies to the King and State*.
 Such a companie as doth not judge upon the ticket of a sack. There must have
 been great matters, and very concluding proofes to declare them such: to con-
 fiscate all their goods, and banish them out of France. Hee that shall read the
 pleadings upon that subject, and the inscription of the Pyramid, will under-
 stand some part of it. The examples of other States, the blowes which they
 have struck, which are but too well knowne to all Christendome, their at-
 chievements and conquests, doe but too much bewray the inside of their sto-
 mach; and make us beleieve it was not without a mysterie that they professed
 themselves unto Princes for *Pedagogues of Armes*.

Du Sieurs D'
 Arnalt. pas-
 quier. Versorh.

CHAP.

CHAP. VIII.

Of the election and nomination to the investitures of Bishopricks, Abbeyes, and other Prelacies appertaining to the Emperours. And first of the election of Popes.

All elections ascribed to the Pope by this Council,



His Council gives the Pope the power of election and nomination to all Bishopricks, Abbeyes, and other Prelacies in all the Kingdomes and Provinces of Christendome. For in the first Chapter of the seventh Session, the Popes authoritie is reserved for as much as concernes Bishops, their residence, and other points of reformation. This being so it must be at his disposall to ordaine what hee shall thinke good: to draw unto himselfe and his Court all manner of nominations and elections: to put out some, and put in others: to set up a trading and traffique in that behalfe, as hee hath done at other times, and doth at this present: to make a common mart and a famous fare of his Court: to rob Princes of the right which belongs unto them in point of nominations, elections, investitures and such like. For if the Pope intermeddle, as he may lawfully doe, they can no way complaine of him, nor debate their right against him, nor say that hee deprives them of what belongs unto them. And indeed the same Council hath decreed it down-right: For it is said in the eighth Canon of the twentieth third Session, *If any one affirme the Bishops that are created by the authoritie of our Holy Father the Pope of Rome, to be no true and lawfull Bishops, but a humane fiction, let him bee anathema.*

2 In the first Decree of the twentieth fourth Session, the election, nomination, and entire disposall of Bishopricks and Prelacies is given unto him without any more dissembling: See here the forme which is there set downe; 1 *That at the Provinciall Synod which shall bee holden by the Metropolitan, a certaine forme of examination, inquisition, or instruction proper to every Province, be prescribed to all places.* 2 *That it bee approved of by the judgement of our holy Father the Pope of Rome.* 3 *That as soone as this examination or inquisition of the partie to bee preferred is finished, it bee drawne into a publique instrument, with all the attestations, and testimonials, and profession of faith by him made.* 4 *That all bee sent forthwith to our most holy Father the Pope of Rome, that having full intelligence of the whole businesse, and of the persons, if by the examination and inquisition they bee found fit men, for the good of the Lords flocke, he may profitably furnish the Churches with them.*

3 It may bee said that all this may be well understood without entrenching upon the right of others, especially of Kings and Princes who have the disposall of them. But that is provided for by another Decree, in such sort that they are not indeed quite right excluded, but a gappe is opened to their exclusion, by inventing a way to make them yeeld unto them. For in case the preferment be done without them, they declare it to be valid and good. And God knowes whether such a course will not bee taken that they shall have no hand in it at all. *The holy Synod further teacheth, that in the Ordination of Bishops, Priests,*

Council. Trid.
Sess. 23. cap. 4.
de Sacramento
Ordinis.

Priests, and other Orders, neither the consent, vocation nor authority of the people, or any other Secular power or Magistrate is so required, that the Ordination should be frustrate without it: But rather it decreeth that those who rise up to exercise these functions, being called and ordained onely by the people or Secular power and Magistrate, or by their owne rashnesse take them upon them, ought all of them to be reputed, not Ministers, but theeves and robbers that came not in by the doore.

The right of
Princes in
elections.

4 It may bee made to appeare yet more particularly, that this Councils intention was to put into the Popes hands all that concerne the election of Bishopricks and other Ecclesiasticall dignities and offices, and to deprive others that might claime any right to them. For by the first Chapter of the sixt Session, the care and charge of preferring or causing to bee preferred unto the government of Churches, such as shall be most worthie, and the power of providing for Bishopricks in stead of the Bishops that do not reside, belongs unto him: which will be a meanes for him to revenge himselfe of such Princes as would desire to retaine trusty Prelates in their Counsell. For if they doe so without the Popes licence, they shall be deprived of them: if with his consent, they shall be but ill served by them. Besides, the Pope will keepe them continually in awe by other meanes afforded him by this Councell; as namely, by the oath which they are bound to sweare unto him at their Provinciaall Councils and Synods within their Dioces; by the censure of their life and manners, their errors and offences; which is also granted unto him, with supreme jurisdiction to punish them.

5 And as for lesser dignities, the Pope is intreated at the twenty first Chapter of the last Session, that *the Monasteries, Abbeyes, Priories and Provostships be bestowed for the future upon regular men, of tried virtue and sanctity.* If these authorities be not sufficient, we adde further; That this Councell gives the Pope authority over all; that by this meanes hee may derogate, abrogate, change, make, unmake, any thing that he pleaseth; the clause of *Glave non errante*, and the exception, *Curia facit* being now abolished. We say more, that this Councell confirms all the Canons and Decrees of Popes, and that by them elections now adaies belong neither to the people, nor to Kings and Princes, that they have neither part nor quart in them, nor can they meddle with them in any sort. In all this the interest of Kings and Princes and of the people likewise is concerned. If wee make this right and interest appeare by their owne testimonies, by the very Canons and Decrees of Popes and Councils, by the authority of all antiquity, by the credit of Histories; what will remaine more, but that we conclude, that that is by usurpation taken from them, which in justice ought to bee restored unto them? The Glossatour upon the Canon Law confesseth this usurpation in downe right termes. For speaking of the consecration of Archbishops, *The Archbishop* (saith hee) *of right ought to bee consecrated by all his suffragans; yet notwithstanding the Pope usurpes this power to himselfe.* With greater reason may it be said that hee usurps the consecration of Bishops and others that are of inferiour dignitie.

Can. nullus.
Can. Adrian 1.
Can. porro.
Can. si per ordi-
natio. Can. non
est ex dicto
Gratian. in his
verbis
Ex constitutioni-
bus dist. 63.
Gloss. ad regul.
29. in verb. quod
omnes. regul. ju-
ris in 6.
V. sacre scriptu-
re testimonia a-
pud Marfilium
Paravin. in de-
fens. pac. part. 2.
cap. 17.
Can. quanto.
Can. plebs.
Can. nō esse.
Can. Episcopos.
Can. literas.
Can. Metropo-
litano.
Can. si in ple-
bib.
Can. Cler.
Can. vota ci-
vium.
Can. Sacrorum.
dist. 61.
Ivo Episcopus
Carnotensis E-
pist. 3.
Idem Ivo. epist.
2. & 3.

6 Now that the people hath a share in the election of their Bishops and Pastours, besides the expresse places of holy Scripture, which may and ought to suffice, I urge their owne Canons and the sayings of former Popes, who testifie the use and custome of the ancient Church in matter of elections; and tell us in plaine termes that they were made by the Clergy and people jointly, and by one common advice, without the one usurping upon the others authoritie. Amongst the Epistles of Ivo Bishop of Chartres we read the very form which the Popes used at the consecration of Bishops; where mention is made of the election of the Clergie and people, which beginnes thus. *Forasmuch as wee beleeve that being called by the will of God, the Clergy and people of such a City*

P
opes chosen
confirmed
by Emperors.

have with one consent chosen you their Rector and Bishop, brought unto us to desire consecration, &c. The very same forme did Pope Urban use at the consecration of the said Bishop of Chartres; for it is upon that occasion Ivo relates it.

Can. in Synodo.
Can. quia sancta
Can. Cum A-
drianus.
Can. Ego Ludo-
vicus. dist. 63.
Vid. Justinian.
Constit. 137. de
ordinat. Episc.
& Cleric. lib. 1.
Capitul Caroli
Magni ca. 84.
Glabrum Ro-
dolph. lib. 5. hist.
cap. 5.

7 This was also observed even in the election of the Pope of Rome, which was performed by the Clergie and people, as their owne bookes testifie. To all which they proceeded in such sort as the Princes authoritie was above all. For whether he made the election himselfe alone, and by his owne proper authoritie, (which is condemned by this Councell) or hee gave and granted it sometimes to the Pope (this I learne from their owne writings) sometimes to the Clergie and people; yet still so as his consent and the confirmation was reserved unto himselfe. The Emperours and Princes themselves made the lawes and Ordinances concerning it: they prescribed the order and forme which should be observed in it. All this is testified unto us by the Popes and Councils themselves; yea approved and followed by them; yea with all humility received: and they thought this right to belong to Kings and Princes so farre, that they never made any bones of acknowledging in them a power to chuse Popes and all other Bishops: of declaring in their Synods that this of right belonged unto them: of confirming it unto them as farre as they were able.

Can. Adrianus.
dist. 63.

8 Pope Adrian with his whole Synod (which consisted of one hundred fiftie three Bishops, Religious persons and Abbats) gave the right and power of electing the Pope unto Charles the Great: the power and right of chusing: and further ordained that the Archbishops and Bishops of all the Provinces should receive their investiture from him: in such sort as no Bishop can bee consecrated by any man unlesse he be approved and invested by the King, pronouncing an anathema against such as shall doe otherwise, as is said in expresse termes in the Canon Adrianus.

Can. Synodo.
dist. 63.

9 Pope Leo the seventh following this example made this Constitution. I Leo Bishop, servant of servants, with all the Clergie and people of Rome, doe ordaine, confirme, corroborate, and grant by our authority Apostolique unto Otho the first, our Lord, King of the Germans, and his successors, the power from hence forwards of electing the successors and ordaining the Pope of the high See Apostolique: as also to the Archbishops and Bishops, to receive their investiture from him, and their consecration where they ought. And a little after. That the Bishop being elected by the Clergie and people, cannot bee consecrated till hee bee first allowed and invested by the King. See here how every one had his share in it: the Clergie and People, the election: the Prince, the approbation and investiture: the Archbishop or Metropolitan, or the Councell it selfe, the consecration.

Can. Agatho
dist. 63.

10 Nor can it be said that this right was first granted to the Emperours in the person of Charlemagne: it was no more but confirmed: for other Emperours of old were anciently accustomed so to doe; as it is affirmed in expresse termes in the Canon Agatho, very remarkable to this purpose. Where Pope Agatho, who lived in the yeare six hundred eighty eight, obtained of Constantine the fourth their Emperour an immunitie and release from that summe of money which the Popes were wont to pay the Emperours for their Ordination. Yet so (these are the very words) as he that is elected shall not be consecrated till the Generall Decree bee first brought unto the Royall City (of Constantinople) according to the ancient custome; to the end that the said consecration may be performed with his consent and command. The words (according to the ancient custome) are worth the noting, to shew that this was no new established thing: for the Emperour had both the right of the one and the other, so saith the Glosse; that is, both of receiving something at the election, and of granting the confirmation of it. But the example of Pope Vitalianus who is spoken of in

in the same Canon, makes the point clearer. Vitalianus according to the canon sent his Legats with a Synodical epistle towards the royall City to the most pious Emperours, to give them notice of his institution. Now this Vitalianus was promoted to the See in the yeare 1657, under the Emperour Constantine the third; who reigned together with his brother Heraclion, as the Archbishop of Caserta tells us, who relates the very same story.

Whether the Emperours have lost their right.

Martinus Polonus in Vitaliano sub ann. 657

Boniface the first entreated the Emperour Honorius by his letters and Ambassadors, to see that after his death the election of the Papedome were made without contentions and corruptions. See here the inscription of the letter which hee sent unto him, which wee read at this day in Isidores Decree printed at Paris, both in a great and lesser volume, the yeare 1524, and 1535, and afterwards at Cullen in 1567. Here begin the Decrees of Pope Boniface. The epistle wherein hee entreateth the Emperour Honorius, to see that hereafter the election of the Pope bee not carried by canvassing at Rome. After this letter of Boniface, follows the Emperours answer, with this inscription; The Constitution of the Emperour Honorius sent to Pope Boniface, wherein hee ordaines, that if hereafter two Bishops bee created at Rome, the one or other of them shall bee driven out of the Citie. And the text sayes thus; Let every man know that these canvassings must be left off. But if peradventure by reason of the temeritie of the factions, there bee two chosen against the law; wee will not that either of those two bee the man: but that hee alone shall enjoy the See Apostolique whom the judgement of God, and the consent of the world shall chuse.

Vid. Decreta Bonifacii 1. in Isidori Decreto Luteria excuso ann. 1524. pag. 129. & ann. 1535. p. 196.

Wee will urge the examples of Pope Symmachus, and Gregorie the Great out of Marfilus, though wee could take them out of the authours whence hee had them. The like we read (saith hee) of Symmachus, borne in Sardinia: for he being elected by discord, together with one Laurentius, was confirmed Pope of Rome by the judgement of King Theodoric. Hear what Martin saith also of St. Gregorie; Hee was chosen Pope, (saith hee) and the Emperour Maurice gave his consent by his Imperiall letters. Others say that St. Gregorie would not receive the consecration, till such time as hee had the Emperour Maurice his consent.

Walteramus episcop. Naumburg. in lib. de investitura episc.

There are two things especially objected against all this. First, the disclaime which is said to be made by Lewes the Gentle, King of France, and Emperour of Rome, by an expresse compact made betwixt him and Pope Paschal: whereby hee promisseth, That none of his Kingdome, French man, or Lombard, or of any other nation within his dominions, shall have any power or leave to doe against the Romans, privately or publicquely, or to proceed to any elections, suffering them to consecrate him whom they have elected with concord and common advice, sending Legats unto him and his successors, the Kings of France, after the consecration, to make peate and amitie with him. In the second place is objected the constitution of the Emperour Henrie the first, where it is said, That none sent by us shall bee any impediment to the election of the Pope of Rome. Which makes Gratian conclude that, From these Ordinances, and from the compact of the Emperour Lewes, it appears that the Emperours have renounced those priviledges which Pope Adrian granted to the Emperour Charlemagne, and in imitation of him Pope Leo to Osbo the first, as touching the election of the Pope of Rome. And this is now adaies taken for Oracle, and followed, yea practised.

Vnam instrumentum extat in Can. Ego Ludovicum. dist. 63.

There is nothing more easie than to discover here errors and falsities both at once. Divers learned men of this age have undertaken to prove that this pretended compact of Lewes is spurious, as well as the Donation of Constantine. And one of the maine arguments is, because there are two evidences of this imaginarie agreement produced, the one different from the other both

Alterum apud Volaterranum Geograp lib. 3. cap. de genere & gestis Pepini & Caroli.

*Let us his con-
pact supposi-
tious.*

*Julian in
his
72*

*Can. quia fan-
tia, dist. 63.*

*Can. in nomine
dist. 23.
Hildebert in
Panorm. l. 3. c. 1*

*Platina in
Gregorio 7.*

*Platina in
Alex. 2.*

in words and substance, yea even in matters of greater moments. In one place it contains a donation of the City of *Rome*, and many more in *Italy*, unto the Pope. Whereas notwithstanding all Histories teach us, that they never pretended to the dominion of it, nor became Lords of it, till in later times they tooke it into their hands by usurpation. Adde hereunto that ancient Historians, some whereof were contemporaries and familiar with this Emperour, speake not a word of it, though they set downe his life even to the smallest particulars. But let us grant them this, that this instrument is true, be it never so false: What doe they gaine by it, for the election of Pope *Leo* the seventh, by whom the power granted to the Emperour *Otho* the first, and his successors, of instituting the Pope and all other Archbishops, and Bishops, is much yonger? and it is a common rule, *That the latter lawes derogate from the former*. Which will serve also for an answer to the constitution of *Henry* the first, inasmuch as the fore-cited Synod was after it too. For this Emperour reigned about the year 920; and the fore-mentioned Synod was holden about the year 937.

15 But see yet more law! After all this Pope *Stephen* the ninth, who lived about the year 1057, under the Emperour *Henry* the second, ordained that there should bee no consecration of the Pope, unless it were in the presence of the Emperours Ambassadors, according to the custome and forme set downe by the Canons. And after that yet Pope *Nicholas* the second, having caused a forme of the Popes election to be prescribed by a Councell of *Lateran* holden the year 1059, in such sort as that it must bee done by the Cardinall Bishops, and Cardinall Clerks, (so they called them in those dayes) with the consent of the rest of the Clergy and people; hee addes, *Saving the honour and reverence due to our welbeloved sonne Henry, King at this present, and who will bee Emperour ere long*.

16 And this is so true that even his successors used to do so till Pope *Gregorie* the seventh, who came to the Popedom in the year 1073, who received also his confirmation from the Emperour *Henry* the fourth: witnesse *Platina*, *In fine*, (saith he) *after divers embassyes, both upon one side and other; the Emperour was reconciled to Gregory, and confirmed him Pope, as was then the custome of Emperours to doe*.

17 The same *Platina* saith in the life of *Alexander* the second, that a certaine Archbishop delegated on behalfe of the Emperour *Henry* the fourth, reproved him very sharplie, for usurping the See of *Rome* without the Emperours command, contrarie to law and custome. It is true he addes that Archdeacon *Hildebrand*, who was Pope after him, and was called *Gregorie* the seventh, defending the Popes cause, said, *That if hee would consent with law and ancient custome, the election of him belonged to the Clergy*. And by these reasons brought over the Archbishop to his opinion. So that this was out of faint-heartednes, and not by the truth of his reasons: for he himselfe that urged them, when he was made Pope, received his owne confirmation from the Emperour, as wee have said.

18 The right of the Emperours in the election and confirmation of Popes being such, there can bee nothing now alledged against these authorities but mere usurpation and violence, which the succeeding Popes have used towards the Emperours to deprive them of it. For after all these there was no more neither contracts nor agreements about this subject.

CHAP. IX.

Of the election and investiture of other Bishops.



Et us speake now of other Bishops. The Patriarchs were created also by the Emperour, or at least by his consent and approbation. Balsamon the Patriarch of Antioch gives testimonie of it. The Orthodox Emperours, who by the invocation of the blessed Trinitie, preferre the Patriarchs, and are the anointed of the Lord, goe in to the sacred altar when they will. As for other Bishops, we have

Election of Bishops belongs to Emperours.

Theodorus Balsamon in comment. ad Can. 69. Synod. in Trullo.

learned from the Canons before alledged, that the approbation and investiture of them belongs to the Emperours, and they were wont so to use them even with the consent of the Popes and Synods.

2 The authoritie which the Councell of Trent gives to the Pope at this day, to dispose of dignities and Prelacies, belonged anciently to the Emperours; yea and that in such sort as the Popes themselves never came in competition with them for it; but all the power which they had in that respect proceeded from the commission, delegation, or grant of the Emperours. They are the Popes owne Canons which say so. Leo the fourth, in *Gratians Decrees*, entreats the Emperours *Lewes* and *Lotharim*, that they would bestow the Bishopricke of *Riete* upon a certaine Deacon called *Colonus*, and to be pleased that with their leave and permission hee might consecrate him Bishop. Which was granted him, as appeares by the letter which the Pope writ to the Countesse of *Riete* about it: The Emperour and Emperesse (saith he) enjoyned me by their letters to make *Colonus* Bishop of *Riete*, which I have done accordingly.

Can. Reatina. dist. 63.

Can. nobis dist. 63.

3 *Guido* Earle of the same Citie, by his letter entreated Pope *Stephen*, that hee would consecrate a Bishop that had beene chosen by the Clergy and people; that so the Church might not continue any long space without a Pastor. To whom hee made answer, Wee could not consecrate him so soone as you desired, because hee brought us not the Emperours letters containing his pleasure therein, as the custome is, by reason whereof wee are perplexed. But we advise you, seeing wee can doe no otherwise in this case, to procure the Emperours licence, as the ancient custome is, and his letters directed unto us: so shall wee not faile to satisfie your desire, and to consecrate him that was elected.

Can. lath. dist. 63.

4 *St. Gregory*, in the same Decret of *Gratian* makes his complaint to the Emperesse *Constantia*, how the Bishop of *Salona*, which some call *Spalato* at this day, had beene consecrated by another than himselfe, and how upon that occasion he had suspended him from celebrating Masse, till such time (saith he) as I shall have understood from my most Illustrious Lords, whether they commanded him so to doe. Hee afterwards addes, For all this he doth not forbears celebrating of masses, and that hee would not come unto him, according to the Emperours command.

Can. Salontana quaest. 63.

5 In the Canon *Principali*, Pope *Pelagius* the first or second writes to the Bishop of *Forcella*, how he had received a letter or commission from the Emperour, called *Sacra*, whereby he was commanded to create a Priest, a Deacon, and a Subdeacon in that City: in obedience whereunto hee commanded the

Can. Princip. dist. 63.

When Popes
began to usurp
elections.

Can. Quia tgi.
tw. dist. 63.

Glaber Rodul-
phus lib. 5. hist.
cap. 4.

Idem Glaber
lib. 5. cap. 5.

Idem ibid.

Helmod in chro-
nic. Slavor. cap.
70.

Waltramus E-
pisc. Naumburg.
in lib. de invest.
Episcop.

* Sigebert. in
Chron. sub ann.
1111.

Martin. Polon.
in Henr. 4. sub
ann. 1110.

Matth. Westm.
l. 2 sub an. 1112

Helmod. in hist.
Slavor. cap. 32.

67 70.

Petr. de Ferra-
riis in forma li-
belli que agit
ex substir. in
verb. ex suo
corpore. num. 3.

Lambert. Schaf-
naburg. de rebu
German. sub an.
1071. et passim.

Author conti-
nuationis ad
Bede hist. lib. 2

cap. 21.

* Can. si quis de-
inceps. 67 se-
quentib. caus.
16. q. 4.

said Bishop to proceed to the ordination. Gregory the thirteenth in his new purgation of the Canon law, saith that the consecration spoken of in this Canon was made upon the Emperours demand. He should have said by the Emperours command. For it is in the text *præcepit*, and not *petiit*.

6 Gregory the Great speaks in another place of a Bishop of Locri elected by common consent of a Councell, and assisted by the Emperours pleasure, in the yeare of the Lord 1046. Gregory the sixt created Odilo Abbat of Cluny, Archbishop of Lyons by his owne proper authoritie, sending him the Pall and the Ring, which he received; yet without accepting of the Dignitie, saying he would reserve it for him that should bee chosen Archbishop. At the same time the Emperour Henry the third, to whom Lyons then belonged as an Imperiall Citie, was perswaded as well by the Bishops as by all the people, to ordaine Odolricus Archbishop thereof, who was Archdeacon of Langres, a man worthy such a charge: which he did.

7 The same Emperour made an Edict against Simoniacall persons, where he urgeth this reason: *As God hath freely given me the Crowne of the Empire, so will I freely bestow that which belongs unto his religion, and will have you also to doe the like*, saith he, speaking unto the Bishops whom hee had assembled in a Councell to provide against that contagion which was so rise in those dayes; and having found them all almost spotted with that disease, having pitie on them he gave them this comfort. *Goe your wayes* (saith he) *and endeavour honestly to distribute what you have unlawfully received: and pray to God for my fathers soule, who is guilty of this fault as well as you.* Therefore the Emperour Conrade, his father, created those Bishops, though it were by Simony.

8 All the rest of the Emperours that lived both before and after him had the same power of chusing or confirming Bishops and other Ecclesiasticall Prelats, or of approving them by putting them in possession of such dignities, by granting them investitures into them. Helmodius a Priest and historian makes Vicelin Bishop of Aldembourg speake thus. *To invest Bishops belongs onely to the Imperiall Majesty.* He puts the same language in the mouth of the Archbishop and Clergie of Breme: *The investiture of Bishops is permitted onely to the Imperiall dignity.* A certaine Bishop of Germany in a treatise made by him of the Investiture of Bishops, the yeare 1109, saith amongst other things, *That Gregory the great writ to Theodorick, Theodebert, and Brunedulde (Kings and Queene of France) to make their investitures of Bishops without Simony.* He saith also that Pope John confirmed the investiture of the Bishopricke of Liege which King Charles had granted to an Abbat whose name was Richard.

9 An infinite number of * Historians and other ancient Authors besides doe testifie that the Emperours bestowed Bishopricks and Abbeyes, and gave the investitures of them. I shall content my selfe with putting down some of them in the margent, without relating what they say of it, considering it is a thing sufficiently knowne.

10 The Emperours enjoyed this right peaceably without any controversie till the time of Gregory the seventh, who though himselfe had received his confirmation from the hands of Henry the fourth, as wee have said, yet with the advice of a Synod, he thundered out an * excommunication against all Emperours, Kings, Dukes, Marquesses, Earles, and other secular powers or persons who should adventure to conferre investitures of Bishopricks and other Ecclesiasticall dignities; and against such as should receive them at their hands, Which Decree serves now adaies for an inviolable law unto his successors, being inrolled in their bookes. And wee may truly say this was the flame that gave fire to those seditions, warres, and other bickerings betwixt the Popes and Emperours, which have consumed all Christendome, and which engendred nought since but disorder and confusion.

11 I will not stay to relate the histories of all that hath passed concerning this subject, because they are sufficiently knowne to every bodie: save onely what passed betwixt Pope *Paschall* the second and the Emperour *Henry* the fift, whom they hold to have renounced this right to the prejudice of his successors. This Pope made an obligation to this Emperour about investitures, in these termes. *Pope Paschal granteth unto the Emperour Henry and to his kingdome as his priviledge, inviolable, and in the person of the Bishop or Abbat elected freely without Simony, the same will corroborate and confirme, with consent of the said Emperour, that it shall belong unto the said Emperour to invest them by giving of a ring and crozier staffe: and that the Bishop or Abbat thus invested shall freely receive consecration from that Bishop to whom it shall belong to give it. But if any be elected by the Clergy and people, unlesse he be invested by the Emperour, he shall not be consecrated by any man: and the Archbishops and Bishops shall freely consecrate those that are invested by the Emperour.* Hee set out another Bull and constitution besides, pretty large, containing for substance the same with the former script, which we read in histories entire.

Henry the 1st and the Popes quarrell about investitures.

12 All this is now condemn'd as a nullitie, and accused of force and violence; being made by a prisoner and captive Pope. Besides, the repeale thereof is alledged, which was made presently after by the Councils of *Lateran* and *Vienna* under the same Pope, and almost at the same time. That of *Lateran* calteth this priviledge granted unto *Henry* a *priviledge*, playing upon the word, condemnes it, casseth, and declares it a nullitie; yea and excommunicates it. *We condemne it (say they) we judge it null, and utterly cashiere it, and for feare lest it should have any authoritie and efficacy, wee absolutely excommunicate it.* That of *Vienna* useth the like condemnation, and goeth yet further, declaring investitures to be hereticall. Behold the words. *Following the authority of the Church of Rome, wee judge investitures of Bishopriques, Abbeyes and other Churches to be a heresie.* It pronounceth also the same Emperour accursed. *We excommunicate him (saith it) wee anathematize him, and cast him out of the bosome of the holy mother Church.*

13 Such was the fury of the See of *Rome* against this poore Emperour, that the Legats trotted over all parts of Christendome to cause the like excommunications to proceed against him, as an ancient writing testifies which *Mr. Francis Juret* hath inserted in his notes upon the Epistles of *Ivo* Bishop of *Chartres*. *The yeare one thousand one hundred and fourteene Cono Bishop of Pilastrine and Legat of the See Apostolique, did anathematize the said King Henry at Beauvais at a Councell by him there holden, and at the next Lent. He condemned the same Henry in a Councell holden at Rhemes. Conon condemned King Henry at Cullen in the Church of St. Gereon. Conon condemned the same King in a fourth Councell holden by him at Chalons.*

14 See here is enough to put him in a fright, but they must trouble *England* too about it. For *Anselme* Bishop of *Canterbury* having received the decree of the Councell of *Lateran*, did his endeavour to make it be observed, by degrading certaine Abbats and Priours, who had taken their investitures from lay hands.

Matib. Westm. lib. 2. sub ann. 1102. pag. 23.

15 This poore Emperour, abandoned almost by all the world, and combated even by his owne subjects, especially by the Clergie, was constrained to renounce the right of his predecessors, and to quit claime the investitures to the Pope, by a goodly declaration which he made concerning it; see here the words. *I Henry by the grace of God Emperour of Rome, for the love of God, of the holy Roman Church, and of Pope Calixt, and for the benefit of my soule, doe restore unto God, and to his blessed Apostles Peter and Paul, and to the holy Catholique Church all kinde of investiture made by the ring and the staffe, and permit that elections and free consecrations be made in all Churches.* The Pope on the

Abbas Wifere, in Chron. Willelm. Malmesb. de gestis Reg. Angl. lib. 5. fol. 9.

Henric's renun-
ciation invalid.

Idem V/perg.
Et Malmsh. ib.

the other side made this declaration unto him. Calixt, servant of the servants of God, to his welbelov'd sonne Henry, by the grace of God Emperour of the Romans. I grant that the elections of the Bishops and Abbats of Germany, which belong to the Empire, be made in your presence without Symony and violence; to the end that if any discord chance to arise betwixt the parties, you may give your consent and assistance to the sounder side, by the Counsell, or judgement of the Metropolitan and Provincials. And that hee who shall be elected may receive from you the Royalties by the Scepter, excepting all such as belong to the Church of Rome, and that he doe unto you all which he is bound by right to doe. And hee that shall be consecrated in other parts of the Empire, shall be bound to receive the Royalties of you by the Scepter within six moneths. Hee calls the fiefs and other rights which the Bishops hold of the Empire, Royalties.

16 The question is now whether this renunciation be valid, and whether it could prejudice his successors. No good lawyer will ever pronounce for it. First, in as much as the Councils aforesaid cancelled the obligation of Pope Paschal as made by impresson and violence, this renunciation of the Empire stands void by the same reason; considering he was brought to that extremitie by the noise of those thunderbolts hurled by the See of Rome in all parts of the world, and by the revolt of his subjects seduced by the abuse of these spirituall remedies, and by the warre which was stirred up against him, to preserve and defend himselfe from an ignominious authoration, and to procure the repeale of those anathema's which vexed his soule, how ever unjust, he was compeld to disclaime his rights.

Abbas V/perg.
in Chron. sub
ann. 1122.

17 Now this force and necessitie appears by that testimonie of Otho Bishop of Freisinger. Wherefore (saith he) the Empire being dismembred, and broken many wayes, the Emperour perceiving that the King revolted from him, because of the anathema pronounced against him, and fearing his fathers example, having called a great assembly of Princes together at Wormes, hee resigned the investiture of Bishops to Lampert Legat of the See Apostolique. The revolt against him was such, that his owne nephewes did abandon him (saith the Abbat of V/perge) who addes these words; the true tokens of this violence. He surrendered Ecclesiasticall investitures unto the Church, and all other spirituall matters, which the Emperours of Germany had so long managed, and which hee had purposed, for the not impairing the honour of the Empire, never to forgoe so long as he liv'd. No man can say but an unjust anathema is an unlawfull force, a violent impresson; and what is done by occasion thereof is lyable to restitution.

Otho Frisn-
gens Chron. lib.
7. cap. 16.

18 The termes of this surrender doe elsewhere shew it to be personall, and that it layes no obligation upon his successors. It is the exposition which was put upon it in those dayes: witnesse the same Bishop of Freisinger. This priviledge therefore is set downe in writing for the Church, and it is granted to him by way of exchange by the Pope, that those who shall be elected as well on this side as you side the mountaines, shall not be consecrated Bishops till they have received the Royalties from his hands, and by the Scepter. Which the Romans say was granted for quietnesse sake, and to him onely, not to his successors. Seeing by their confession the compact is no more but personall, for as much as concernes what was granted to the Emperour, by the same reason they must acknowledge it is just so in regard of what was granted to the Pope.

Abbas V/perg.
sub an. 1126.

19 So the Emperours which reigned after him complain'd of injustice, even Lotharius the fourth, the successor of the same Henry against Innocent the second, witnesse the Abbat of V/perge. At this time (saith he) the Pope went to finde the Emperour at Leiege, demanding assistance and favour of him against the said Peter and his abettors; but the Emperour having taken advice what hee should answer, beganne to redemand of the Pope the investitures of Bishopricks, which the Emperours had enjoyed for a long time before. The same was done by

by *Otho* the fourth. Which a German Historian signifies unto us by these words, speaking of the dissention of that Emperour and Pope *Innocent* the third; *As for the Pope* (saith he) *the reason of it might bee, because the Emperour redemanded the ancient imperiall rights over Italy; some whereof had bene lately transfer'd unto the Church.* But *Marsilius* of *Padua* affirms it more clearly, speaking also of the Emperour *Frederick* the second: *Otho* the fourth; (saith hee) and *Frederick* the second; *when they would have repealed, it may be for lawfull causes, these grants and priviledges, (he speaks of Investitures) or indeed repealing them absolutelie, or in part, they endured many plots, persecutions, and impediments from the Clergy and Bishops of Rome.*

Bishop of Chartres his opinion

Albert. Crant. l. 7. c. 33

Marsil. Patav. in defens. pap. part. 2. c. 25.

pag. 174.

20 As for those Councils which were the cause of this renunciation, and pronounced the Emperour *anathema*, depriving him of Investitures, it must be observed, upon what grounds they stand. They deprive an Emperour of the right of Investitures without hearing him, without summoning him. See here an injustice! They condemne Investitures as hereticall; they condemne then Pope *Adrian* the first, and all his Councell, of heresie; who granted them to *Charles* the Great; *Leo* the eight and his Councell, who granted them to *Otho*; as also all other Popes who tolerated them, yea even those who approv'd them, of whom we have spoken already.

21 And upon this point we must heare what our good Bishop of *Chartres*, that great Pope-Monk saith, who is much troubled to defend this condemnation of heresie, and implication of horrible contradictions. For in his epistles making answer to *John* Archbishop of *Lyons*, who reprehended herein the fathers of this Councell of *Vienne*: 'Whereas (saith he) you reprehend those that ranke the investitures of Ecclesiasticall dignities made by Lay men amongst the number of heresies, it seemes there is no great force in your reprehension. For although hereticall error lodge in the heart, as well as Catholique faith: yet notwithstanding as we know a Catholique by his Catholique works, so wee know an heretique by his hereticall works. God hath said, by their fruits yee shall know them: and every tree is knowne by his fruit. And although externall investitures made by Lay men, cannot be properly judged heresies: yet to bee of opinion, and to maintain that they are lawfull, is an undoubted heresie. This is not said with sufficient reason. For the Councell saith, Investiture is an heresie, and he makes no answer to that. If it bee an heresie, then it follows as wee said, that those precedent Popes and Councils that authorized them; yea, (to take in all that is in *Leo's* answer) that were of opinion they might and ought to bee given by the Emperours, were truly heretiques.

22 This Bishop makes us behold this heresie of another colour; (so much paines does he take to defend a bad cause!) for he judgeth it an heresie in case the Lay man which performes it, doe thinke it to bee a Sacrament. If any Lay man (saith hee) fall into this folly, that he thinks he can administer a Sacrament or a thing belonging to a Sacrament of the Church, by the giving and taking of a word: wee judge him an absolute heretique; not for his manerall investiture, but for his diabollicall opinion. Verily so should a Priest bee too, that should beleeye his surce, his surplesse, or his square cap to bee a Sacrament. And yet hee must not therefore be devided of them. In that epistle hee notes no other heresie in investitures, but urgeth many reasons to prove they are not so; yet notwithstanding he concludes that Princes must be deprived of them; Because (saith he) being performed by Lay men, it is an usurpation upon another mans right, a sacrilegious presumption. Hee speaks thus to maintaine the cause of the Pope and the Councell, right or wrong.

23 But let us hear what he saith of it formerly, when he was in cold blood, in an Epistle of his written to *Hugh* Archbishops of *Lyons*; 'As for that

Kings may
confer Bishop-
riques, &c. The
Emperour Hen-
ries right vin-
dicated.

Ivo Ep. 65.

• which you writ unto me, how the said party elect received Investiture into
• his Bishopricque from the Kings hands, wee knew nothing of it, nor was it
• told unto us by any body. But although it were so, yet considering that hath
• no force of a sacrament, to make a Bishop whether it bee done or not done,
• I doe not see wherein it can be hurtfull to faith and religion: yea we doe not
• finde that by Apostolicall authoritie Kings are forbidden to grant Bishop-
• riques after Canonieall election. For wee read that some Popes of good
• fame have become intercessours to Kings for those who had been elected un-
• to Churches, to get them to give them the Bishopriques: and that others
• have deferred the consecration, because they had not yet received the Princes
• consent. I would have set downe the examples hereof, were it not that I
• desire to avoid prolixitie in my letter. So Pope Urban, as we understand,
• excludes Kings only from the corporall investiture, but not from the electi-
• on, forasmuch as they are heads of the people, or of the grant: although the
• eighth Synod forbids them onely to assist at the election, but not at the deli-
• verie; which whether it bee done by the hand, or by scale, or by word of
• mouth, or by the rod, what matters it? Seeing Kings doe not pretend to
• conferre any thing that is spirituall in it, but only to consent unto the will of
• those that require them; or to grant unto them Ecclesiasticall possessions and
• other externall goods which Churches hold by the liberalitie of Kings. As for
the Sacrament of which he hath spoken now twice, there was no question of
that, seeing that by former Councils the investiture was granted to Emperors
and the consecration to Bishops.

24 What can be alleadged more in defence of these later Councils? If any
man will say that the Emperour Henry was justly deprived of this right, be-
cause he had violated the holy See, and had put Pope Paschal in prison: Wee
will give two or three very pat answers to this objection. One, that hee did
no more but repell the injury which was done unto himselfe. For even in the
Church, and while he received the Eucharist from the Popes hands, hee was
like to have beene traiterously killed. Heare what the German Chronicles say
of it; *While the Emperour received the Sacrament from the Popes hands, behold
one of the principall of the Clergy, who was offended with that purpose which the
Emperour had put on, that he would maintaine the constitutions of his Predeces-
sors, stirred up a sedition and tumult in the temple, beat off the guard of the Em-
perours body, and went about to seaze upon him: who with much adoe saved him-
selfe, repelling the force with his owne hands.* And speaking of the same Em-
perour hee afterwards addes, *Hee got him presently into the Citie, killed a great
multitude of citizens and Clergy-men, tooke the Pope prisoner.* Elsewhere the
Pope and Emperour were very good friends, by meanes of the agreement
made betwixt them, of which wee have spoken already: yea in such sort that
the Pope sealed it, by delivering the body of Christ unto the Emperour, *By
giving unto him (saith Sigebert) the body and bloud of our Lord Jesus Christ in
the celebration of the masse. Wee give you this body (saith hee) O Emperour, in
confirmation of the true peace betwixt me & you.* And for a third answer, his per-
sonal and particular fault could not prejudice the Empire and his Successours.
But we have said enough of this point. It only remaines that some that can
well manage it enter upon this inheritance. There will want no right, if hee
want no forces.

Sigebert. in
Chron. sub ann.
1111.
Adde Mattheu
Westmonast.
lib. 2. sub Ann.
1111.

C H A P. X.

Of elections, nominations, and Investitures belonging to other Kings and Princes.



E come now to other Princedomes, reserving France to bee spoken of in the last place. The twelfth Council of Toledo grants election of Bishops to the King of Spaine, which our Popes have registred in their books. It was decreed by all the Bishops of Spaine and Gallicia, that without any prejudice to the priviledges of every particular Province, it shall be lawful hereafter for the Bishop

of Toledo, to receive and consecrate all such Bishops as the Royall power shall elect, and that every such Bishop shall bee approved by his judgement. Which, as Lancelot Conrad witnesseth, is observed and kept even at this day.

2 As for the Kings of England, though they have often quarrelled with the Popes, and the Clergy of the Kingdome about this point, yet so it is that from age to age we alwaies finde them possessed of this right. For to goe no higher, about the yeare one thousand King Etheldred created one Robert Archbishop of London, and one Edmund Bishop of Luiddifarne, otherwise called Holyland; at the entreaty of the Monks of that Bishopricque. King Edward made one Robert first Bishop of London, &c. and afterwards Archbishop of Canterbury, whose successour he made one William. He gave also the Bishopricque of Shyrburne to one Herman. In the year one thousand one hundundred & seventie, King William the first of that name, bestowed the Archbishopricque of Torke upon a Canon called Thomas. In the yeare one thousand seventie eight hee bestowed three Bishopriques upon three of his Chaplaines, and many others upon divers Ecclesiastiques.

3 In the year one thousand ninety two King William the second bestowed the Bishopricque of Lincolne upon Robert Blunt his Chancelour; he bestowed also that of Worcester upon a Canon called Sampson. One of the two bestowed also the Bishopricque of Silchester upon Lanfranke.

4 The yeare one thousand one hundted and one, King Henrie the first bestowed the Bishopricque of Hereford upon Kemelin, and gave him the investiture of it. The same King gave the bishopricque of Winchester to a Canon called Thailphus, and afterwards to the Chaplaine of Queene Adalida.

5 The yeare one thousand one hundred and two, Anselme Archbishop of Canterburie would have made the Councell of Lateran to bee received in England, holden against Henrie the fifth about the point of Investitures. And in obedience thereto, he made a difficultie of consecrating certaine Bishops, who had beene invested by Henrie the first, who was much incensed against him upon that occasion; And forasmuch (saith Matthew Westminster) as hee would not consecrate certaine Bishops, who had been instituted by the King, obeying his pleasure, nor so much as communicate with them, the King was thereupon moved with choler against him.

6 The yeare one thousand, one hundred and seven, there was a Councell holden at London, where it was ordained; That from thenceforward no man should be invested in England by the King, or any other Lay man into any Bishopricque,

Kings of England chose Bishops.

a Conc. Tolet. 12 cap. 6.

b Can. Cum longe dist. 63.

c Lanc. Conrad. in templo amni-um judic. l. 1. c. 2 §. 3. nu. 10. & l. 2. cap. 1. §. 4.

verf. 4.

d Willielm. Mahnesbur.

l. 1. de gestis pontif. angl. p. 116.

Idem lib. 3. p. 157.

Idem lib. 1. vers. 4. fm.

Idem lib. 2. p. 142.

Idem lib. 3. p. 155.

Matth. Westm. lib. 2. sub. ann. 1878.

Florent. Wigorn. sub. ann. 1070.

Matth. Westm. lib. 2. sub. ann. 1092.

Malinesbur. l. 4. Idem l. 2. p. 116.

Idem l. 2. sub. ann. 1101.

Malinesbur. l. 4. Idem p. 161.

Westmonast. l. 2. sub. ann. 1192.

Idem Westm. l. 2. sub. ann. 1192.

Kings of Eng-
land bestow Bi-
shopricks.

Idem Westmon.
l. 2. sub ann.
1109.

Idem lib. 2. sub
ann. 1113.

Idem Westmon.
l. 2. sub ann.
1125

William Neu-
brigenfis rerum
Angl. l. 4. c. 2.

Idem Westmon.
l. 2. sub ann.
1204.

Idem Westmon.
sub ann. 1245.
Vid eundem.

Malmesb lib. 2.
in fin. p. 146.
lib 4. p. 163.
et 165.
Et Wigornenf.
sub ann. 1070.
pag. 435, 436.
sub ann. 1103.
pag. 475.
Matth. Paris.
et alios.

Anton Corsetti
in tract. de reg.
pot. q. 11. no. 11
vide antiquas
collectiones de-
cret. Antonii
Augustini Iter-
de excusas
ann. 1576. col-
lect. 1. c. ex di-
ligenti. Tit. de
jure patronatus.

rique, or Abbey, by the donation of the Pastorall staffe, or ring, alwayes reser-
ving the homage due to the King. But Henrie the first did not forbear to use
his right for all that, which this Councell could not take from him. And in-
deed in the yeare one thousand, one hundred and nine, he erected the Abbey
of Ely into an Episcopall See, and caused one *Herveus* to be ordained over it,
and having assembled divers Bishops at London in the same yeare, hee made
them consecrate one *Thomas*, who had beene chosen Bishop of Yorke. In the
year one thousand, one hundred and thirteen, The same King Henry bestowed the
Archbishopricke of Canterburie upon Richard Bishop of London, and invested
him in it, by giving him the crozier, staffe and ring. In the yeare one thousand
one hundred twentie five, hee bestowed foure Bishopricks more.

7 William of Newburie both Doctour of Divinitie and an Historian, proves
in like manner of King Richard the sonne of Henry the second, who raigned
about the yeare one thousand one hundred, eightie nine. First of all (saith he)
this new King was so affected, that by his meanes many Churches which were va-
cant of England, were provided of Pastours. Richard of Ely the Kings treasu-
rer, was preferred to the See of Lincolne, Godfrey Lucy to the chaire of Silche-
ster. William Longchampe the Kings Chancelour to the Bishopricke of Ely.
Hubert Deane of Yorke to the Church of Salisbury: hee bestowed also the Me-
tropolitan See of Yorke upon his brother Jeffrey.

8 The yeare one thousand two hundred and seven Pope Innocent the third
would have perswaded the Monkes of Canterburie to chuse one Stephen
Langton for their Bishop, but they replied, that it was not lawfull for them to
doe so without the Kings consent. But the Pope having injoynded them under
the paine of Anathema, they were compell'd to consent unto him so and so,
though with a great deale of murmuring. Which being done, the Pope
writ unto King John a soothing letter to get him to approve of it. But he be-
ing offended thereat, Commanded that all the Monks should bee drawne out of
the Monasterie of Canterburie, as guiltie of high treason, yea, and that they should
be chased out of his Kingdome.

9 In the yeare one thousand two hundred, fortie, and five Henrie the third
King of England, Having received a foule injurie, done, as he thought,
both to him and his, forasmuch as many Bishops were created in England
without his consent, hee sent Mr. Lawrence de St. Martins his Proctour to
the Court of Rome, to make complaint of it, and plead the right which hee
had thereunto from all antiquitie.

10 One Mr. Richard de Witz having beene elected Bishop of Chi-
chester by Innocent the fourth, who was then at Lyons, To the intent that
such an injurie done to the King, might not passe unpunished, (saith an Eng-
lish Historian) hee was justly deprived of a Baronie which belonged to the
Bishopricke. 'Tis true, it was restored a long time after by meanes of the
earnest intercessions which were made thereupon. There are infinit ex-
amples of this nature, both in these authors from whence wee have taken the
former, and divers others.

11 Wee will here observe that our Popes have elsewhere testified in their
owne books, how the right of bestowing benefices, and Prebends, which be-
long unto the Kings of England in capite during the vacancie of the Bishop-
ricke. This wee read in a Decretall of Alexander the third in these words;
The said Bishop being deceased, and the revenues of the Bishopricke being
come unto the Exchequer, a certaine Prebend chancing to bee void, our wel-
beloved sonne in Christ, Henrie the illustrious King of England, hath be-
stowed upon Thomas his Clerk. This Decretall was extant in the title, De
jure Patronatus, after the chapter Praterea, in the third booke of the Decre-
tals, as I have seene in an ancient Manuscript, which is in my custodie. One of
our

our Doctours witnesseth also that it was anciently there, and afterward expunged. A learned *Spanish* Bishop publisht it since by adventure, without ever thinking upon it, for he had no intention to harme the Pope.

12 Our Doctour of the Civil law beare witness of the rings of *England*, affirming, that this right belongs unto them; and determining also, that it is a thing which may bee done. They say as much for the King of *Hungary*, the King of *Apulia*, and also for the King of *France*. See here the verie words of *Alexander* in his counsels; *Baldus* said well in the law, *descripta de precib. imperat. offerend.* that Kings and secular Princes, who by ancient custome, time out of minde, have power to conferre Prebends and Benefices within their dominions, may doe it because such a custome gives them a priviledge. And he sets downe a president of the King of *Hungarie*, and the King of *England*. The King of *Apulia* might be added also, according to that remarkable glosse in the summarie of the seventh Quæstion *causa 16*. Another might be urged of the King of *France*, as saith *John* the Monke upon the first chapter *De Prabendis in sexto*.

Severall Kings
conferre Bi-
shopriques.

*Alexand. Con-
sil. 174. nu. 8.
Tom. 4.*

13 See here many authorities together, whereunto wee will adde that of *Lancelot Conrade* Lawyer of *Millaine*, and the King of *Spaine* his subject, who will furnish us with some others. So some Kings and Princes (saith he) may conferre the benefices of their Kingdome when they have got this right either by custome time out of mind, or by Apostolicall priviledge, as *Alexander* hath counselled in his 74. Counsel, num. 8. volum. 4. *Baldus* in the law *Rescript. C. de precibus imperat. offerend.* *Martin Lawrence de Privil. & Rescript. Quæst. 2.* Following *Alexander* he urgeth the examples of the Kings of *France*, *England*, *Hungary*, and *Apulia*, and addes also the King of *Spaine*: hee saith further, that the King of *France* seemes herein to have a greater power and a larger right than the Emperour.

*Lancelot Con-
rad in templo
omnium judic.
lib. 1. cap. 2. §.
nu. 10.
Walterus E-
pisc. Naumbur-
gensis in tract. de
investit. Episc.
1 Greg. Turon.
in hist. Franc. l.
3. ca. 16. §. 7.
26. l. 4. c. 6. 7.
15. 18. l. 3. c. 4.
46. l. 6. c. 2. 7.
9 15. 9. l. 7. c.
17. Idem in vir-
sanâ Gall.
Ammonius de
reb gest. Franc.
l. 34. Rhegmo
in chron. sub an.
869. hist. Rhe-
mens. l. 2. c. 3. 9.
Frodoard. in
chron. sub ann.
967. Ivo Car-
nat. Episc. ep. 3. 6
44. 48. 49. 67.
121. 162. 169.
352. Hildebert.
Turon Archiep.
ep. 3. Lup. Abb.
Ferrar. ep. 6. 1.
40 79. 81. 84.
89. 2. Capitul.
Carol. magn. l. 1.
c. 84. vid. etiam
lib leg. Francic.
c. 78. 2. Can Sa-
cror. dist. 63.
Capitul. Carol.
Mag. lib. 1. c. 84.
vid. etiam lib.
legum Franci-
carum cap. 78.*

14 A German Bishop who writ in the yeare one thousand one hundred and nine, addes also the King of *Scotland*, and proves the same of him which hath beene said of the rest. We reade (saith he) of the Bishops of *Spaine*, *Scotland*, *England*, and *Hungarie*, that by ancient institution, till this upstart novelty came in, were put into their Bishopriques by the Kings, with purity and integrity, and with peace and quietnesse for temporall matters. Afterwards hee speakes of our Kings of *France* on this manner. A long time before the decree of *Adrian* and his successors, the annointed Kings and the Maiors of the Palace invested Bishops, *Dagobert*, *Sigebert*, *Theodorick*, *Hilderick*, *Pepin* Maior of the Palace, and *Theodoret*, who established *Remachus*, *Andomarus*, *Amandus*, *Antpertus*, *Eli-
gius*, *Lampertus*, and other Bishops of most holy life.

15 Let us now see what this right of *France* is. It is certaine that from the verie infancie of this Realme our Kings have begunne, and continued, through all their three lines, to elect Churchmen, to bestow Bishopriques, Abbeyes, and other Ecclesiasticall dignities upon them, to give these elections to such as they thought good, alwaies reserving unto themselves their consent or approbation, and to proceed therein such other waies as they thought fit. The examples hereof are so plentifull, that wee should bee afraid to tyre the reader by reciting them; and therefore we will content our selves with quoting them in the margin, especially considering that there are so manie other waies to prove it, that we care for nothing but curtailing our discourse.

16 Whosoever shall seriously consider these examples, hee shall finde that our Kings have alwaies dealt herein as they pleased: that sometimes they have made elections and nominations themselves: sometimes they have given leave to the Clergie to make them, either alone, or with the people; and have been content to give onely their consent, or to confirme them, or to give the investiture. The Emperour *Charles* the Great ordained by his Capitularie Lawes

Councils de-
cree Bishops
and Pastors to
be chosen by
Clergy and
people.

* Can. factor.
dist. 63.

that the Bishops should be chosen by the Clergie and people of the same Dio-
ces. * Our Popes have not forgot it in their owne bookes, thinking that they
had gain'd thereby some advantage upon *France*. But our Kings by this remit-
ted nothing of their authoritie; but reserved unto themselves their consent and
approbation, and investiture, which they used ever after; even *Charles* the
Great himselfe the authour of that law. But howere it be, hee that made the
law may unmake it; he may change it at his pleasure. If there were any thing
in it to their disadvantage, which there is not.

Can. porro. dist.
63.

17 They would also make a law against our Princes from a certaine preten-
ded prohibition which *Nicholas* the first set out against King *Lotharius*, that he
should not permit any to bee chosen Bishop of *Treves* or of *Cullen* without
first consulting with the See Apostolique; declaring unto him, he was not plea-
sed that he should meddle in such elections, to preferre such persons as were his
favourites. And they have laboured all that they could to gaine this autho-
ritie over our Kings, which they for their parts have alwaies stoutly defended,
even by making faire decrees to debarre them from meddling.

Cap. 10.
Conc. Aurelian.
5. quod extat in
tom. 2. Concil.
pa. 575.
Synod Francic.
Tom. 3. Conc.
pag. 473.

18 Possibly it will be said unto us, that all this is done by usurpation, abuse,
and unlawfull attempt. There then wee must straine to root this false opinion
out of their braines. We will therefore justifie their right by the authoritie of
Councils, and first by that of *Orleans*, which is accounted the fifth, holden in
the time of Pope *Vigilius* the first, and of King *Childebert*, the yeare five hun-
dred fortie nine, where this decree was made. *That it shall not be lawfull to ob-
taine any Bishopricks by presents, or by meanes of any such like purchase, but
with the kings consent, according to the election of the Clergie and people, as it is
written in the ancient Canons.*

Synod. Sueslion.
10. 3. Cons. pag.
438.

19 *Carloman* Duke, and Prince of the *French*, speakes thus in the Synod of
France holden in the yeare seven hundred fortie two. *By the Councell of the
Clergy and chiefe men of the kingdome, we have ordained Bishops over the Cities.
Pepin* Duke and Prince of the *French* useth the same termes at the Councell of
Soissons, holden in the yeare seven hundred fortie foure: *Wherefore* (saith he)
*we have instituted and ordained lawfull Bishops over the Cities, with the advice
of the Clergy and Princes of France.* Now this is spoke by them with the ap-
probation of those Councils, yea they are the verie Acts of the Councell,
which speake so.

Conc. Paris. lib.
3. c. 22. to. 3.
Conc pag. 817.

20 The Councell of *Paris*, addressing their words to the Emperours *Lewes*
and *Lotharius*, under whom it was holden in the yeare eight hundred twenty
nine: *We intreat your Majesties to use great diligence and most exact care in
the institution of Rectours and Pastours in the Church.* This petition presup-
poseth that such right belong'd unto them, and that the Councell thought so,
otherwise they would rather have intreated them to forbear.

Conc. Valent.
tom. 3. Concil.
pag. 890.

21 The Councell of *Valentia*, holden in the yeare eight hundred fiftie five,
intreats the Emperour *Lotharius*, that as soone as certaine Bishopricks shall
come to be void, he would leave the Canonically election unto the Clergie and
people of that Citie. And as for such as should be sent from the Princes Court,
if upon examination any default were found in him either for manners or lear-
ning, or any thing else, that he would be intreated to chuse another. Whence
we collect that the Councell consents unto this, that the Prince may elect any
of his Court, such as he shall thinke good; provided they be of qualitie requi-
site to Ecclesiasticall dignities: and for the rest intreats him to leave the electi-
on to the Clergie and people. It shewes us that this was in their power, and
withall that the Council intends this election shall be made by the Clergie and
people, saving the consent and approbation of the Prince. Let us proceede to
other testimonies.

22 There is a very remarkable one in *Marfilinus* of *Padua* his *Defensor Pa-*
cis.

cis. And as for the proposition about the institution of Ecclesiasticall Ministers, and the distribution and collation of temporall benefices, I will shew by the authority of the Catholique Kings of France some things which are not to bee contemned, but ought rather to be considered: for they assure us that the authority of instituting and bestowing of certaine Ecclesiasticall offices, benefices, and temporall meanes belongs unto them by right; which de facto they have caused to be inviolably observed to this very day; in such sort that this authority is not derived from them either upon any particular person, or upon any Colledge of what condition soever: So neither is the law-giver nor Prince prohibited by the law of God to make such institutions, collations, and distributions.

Investitures proved to belong to the Kings of France.

Matthieu Pavinus in de fens. pac. part. 2. cap. 17 pag. 290.

23 Our expositors upon the Civill Law say the same, and testifie by their writings that this facultie of conferring dignities and Ecclesiasticall benefices belongs unto our Kings of France: determining further that it is a thing which may be done: and amongst others, Iohannes Monachus, Alexander, Lancelot Comrade, all which speake both for matter of right and fact. Lupus Abbot of the Abbey of Saint Peters of Ferrieres, who lived in the time of Charles the Bald, about the yeare 870, writing to Amulus Archbishop of Lyons, saith, That it is no new nor rash thing that the King should furnish the most honourable Churches with his Courtiers; considering that Pepin (from whom hee is descended by Charles the Great, and the most devout Lewes, both Emperours) having given Pope Zacharie to understand in a certaine Synod the necessity of the Realme, hee got his consent, to furnish the Churches with good Pastours, after the decease of the Incumbents: remedying by that meanes the badnesse of the times.

Iohannes Monachus in c. 1 de Prebend in 6. Alexand. consil. 74. num. 8. volum 4. Lancelot Comrad. in templo omnium iudicium lib. 1. cap. 2. §. 3. num. 10. & 11. Lupus epist. 81.

24 Hildebert Archbishop of Tours, who liv'd about the yeare 1080, under Philip the first, King of France, approves the presentation made by the King to a certaine Bishopricke of his realme, commending him on this manner. I congratulate with virtue that hath her reward under our King. Hee hath found that the power of a King shines more bright by gifts and liberality, than by the Scepter; and that it is not sufficient for a Prince to stirre up his subjects to well-doing by examples, unlesse they be also provoked by rewards. Hence it is that your good manners were honoured by a great Priesthood. The disposition of the King was sound and prudent, considering it could not better provide for the Church, than by placing you in it.

Hildebert Turonens. Archiep. epist. 3.

25 Ivo Bishop of Chartres, after he was elected by the Clergie, was presented to the same King Philip the first, and received his investiture and Pastorall staffe from him: upon the refusall of the Archbishop of Sens he was consecrated by the Pope, whereat the said Archbishop was highly offended, in so much that he with other Bishops at the Synod of Estampes, were upon the point of revoking the said consecration made by the Pope, as prejudiciall to the authoritie Royal. See here what the same Bishop saith of it in a letter to Pope Urban. Moreover I give your Holinesse to wit, that the Archbishop of Sens, being infatuated by the counsell of the Bishop of Paris, having summoned the said Bishop of Paris, and two others of the same humor, to wit he of Meaux, and he of Troyes, did very indiscreetly accuse me this present year, because of the consecration which I had received from you; saying that I had offended against the Kings Majesty, by attempting to receive my consecration from the See Apostolique. We have heard before what this same Bishop said of Investitures, speaking of the King of France.

Ivo Episcopus Carnotensis Epist. 1, 2, 8, 12.

Idem Ivo epist. 12.

Idem Ivo epist. 65.

26 We may now conclude, that elections, nominations and approbations in point of benefices, have alwaies belonged unto our Kings, and have beene at their free disposall. By their last ordinances they have beene pleas'd, as well to disburthen themselves of that charge, as also to prevent the enterprises of the Popes, to decree that elective dignities should bee conferr'd by elections, and benefices which were not elective by the collations and presentations of the Collators and Patrons: And this according to the Councell of Basil, which hath

Bishps ought
to take the
oath of alle-
giance, and bee
chosen by
Kings, &c.

hath tied the Popes hands in this respect, and the Pragmaticque Sanctions of St. *Lewes* and *Charles* the seventh. Yet this was still with two conditions: one that the Kings *Congé d'elire* should bee requir'd by way of preamble, at least in respect of Bishopriques and Abbeyes, otherwise the election should be accounted a nullitie. Which is verified by the letters of our Kings as farre as King *Lewes* the eleventh, containing the said licence, which may yet be found in the treasurie of *Chartres* in a great box quoted xxv. Which right was declared to belong to King *Philip* the Faire, when the question was about *Saint Maglairs* Abbey, as some report.

27 The other, that the said Prelates before they could be called such should be bound to take the oath of allegiance according to the ancient custome, as it was determin'd by the Arrests of the Parliament of *Paris* against the Archbishop of *Aux* and the Bishop of *Mantes*. Which was observed in the time of *Philip* the first, according to the testimonie of the Bishop of *Chartres*: who in his epistles address'd to Pope *Paschal*, speaking of the Archbishop of *Rhemes*, who had beene depriv'd of his dignitie, and for whose reestablishment the said Bishop had interceded to the Kings Councell. *The Princes Court* (saith he) inclining to the contrary, we could not obtaine an entire peace, unlesse the said Metropolitan would make unto the King such an oath of allegiance as other Archbishops of *Rhemes*, together with all the rest of the Bishops of this Realme of France, how holy and religious soever they were, made to the Kings his predecessors. Divers authors beare witnessse of this oath of allegiance made by Bishops to their kings and princes both in *England* and *France*, and other places, some of them set downe the very forme.

28 Since this time our kings have beene compell'd to divide their rights with the Popes, (to give them content, and be at peace with them) by taking away elections, and reserving unto themselves in stead thereof the nominations, and allowing unto Popes the confirmations. By the ordinance of *Orleans* King *Charles* would have taken the Clergie and people in to his share, by decreeing that, when Bishopriques fell void, the Archbishop and Bishops of the Province, and the Canons of the Cathedral Church should meet together, with twelve gentlemen chosen by the Nobilitie of the Dioces, & twelve Burgeses chosen in the Guildhal of the Archiepiscopal or Episcopal Citie, to make a nomination of three persons, of which the King should chuse one, whom he pleased to name. Which notwithstanding we never yet saw observed.

29 Wee will say for conclusion, that it is no small advantage to the Pope to have the confirmation of the Bishops of *France*, which was granted him by the Concordat: but it will bee farre greater yet, if he keepe that authoritie which is given him by this Councell. For by it hee will quickly bring all these Concordats to nothing, and will resume the extravagancies of his predecessors; who had got all the elections and collations of the Bishopriques, and benefices of this Kingdome into their Churches, to the utter ruine and destruction of it: draining the Realme of moneyes, and filling it with strangers, and bringing it to an extreame miserie, as we say else where.

30 We shall only here observe the particular interest of Kings and Princes for as much as concerns their power and authoritie, whereof they ought to be very jealous if they marke it. There is nothing which fortifies it so much as that right which they have to chuse and elect Churchmen; nor which weakeneth it so much, as when the Pope hath an hand in it, either in whole or in part. *The* Bishop of *Chartres*, although hee had received his Investiture from *Philip* the first, yet in as much as he had got his confirmation from Pope *Urban*, he was alwaies affectionate to him and the See Apostolique, even to the prejudice of the King and Kingdome; to whom he did sometimes very ill offices: as wee collect from some of his epistles. On the contrarie, because *Lu-*

Two epist. 206.
Vid Matth.
Westmonast. l. 2
sub ann. 1136.
1171.
Extat hec ju-
ramenti formu-
la inter scrip-
tores cotaneos
Rithæi pag. 509
editionis *W-*
ebelian.

L' Ordonnance
D' Orleans
art. 1.

Two epist.
8. 12. 20. 28.
43. 44. 48. 49.
50. 58. 116.
271. 272.

pus had got the Abbey of Saint Peter de Ferriers in the Dioces of Sens, by the donation of Charles the Bald, he was alwaies loyall, and he even brags of it in one of his Epistles.

31 An English Historian, though hee bee a Monke, yet hee knew well how to set out this interell of Princes. For speaking of the consecration of certaine Bishops of England, made by Innovent the fourth when he was at Lions, hee saith, *They were consecrated by the Pope, not without great damage and danger to the Realme of England. For the Pope having so ingaged the Bishops unto him, they found themselves more obliged unto him; and despising the King, they were more inclined to doe mischief to the Kingdome.*

32 The Bishop of Chartres continuing his devotion to Pope Urban, gave him notice of this point, upon the election of an Archbishop of Rhemes, who he assured the Pope was very zealous for the See Apostolique, adding afterwards, *Now how necessarie it is for the Church of Rome to place in that See a minister which is devout and affectionate unto her, it is not for me to informe your wisdom, which knowes very well that this See weares the Royall Diademe, and serves for a patterne almost to all other Churches of France, either of ruine or Resurrection.*

33 Not without cause did Pope Nicholas the first stomach at Lotharius, because he would not suffer any Bishop to bee chosen in his Kingdome, unlesse hee were faithfull and well inclined to him. King William the first of England in the beginning of his reigne, which was about the yeare 1070, knowing this very well, deposed some part of the Bishops and Abbats from their dignities and Prelacies, and put others in their places, whose fidelitie was known unto him.

34 Another Monke and English Historian saith, the Popes upon this occasion invented another way to oblige such Prelats unto them as held their dignities from Kings and Princes. Which was by making them renounce them, and resigne them into their hands, as faultie and nullities, and taking them with one hand, they gave them againe with the other. Ivo toucheth upon this tricke in his epistles. For amongst other reasons to prove that investiture is no heresie, hee puts this; *If Investiture were an heresie, hee that renounceth it could not be restor'd without blemish to himselfe. Now wee see many honest men, both in Germany and France, give up their Pastorall staffes to wash away that staine by some shew of satisfaction, and resume those Investitures which they had renounced, from the Apostolique hand. So did Thomas the Archbishop of Canterburie, who put Henry the second, King of England, to so much trouble. For being at the Councel of Tours, Hee secretlie resigned that Archbishoppricke into the Popes hands which he had received from the Kings hand, and it was afterwards restor'd him againe at the same instant from the Popes hand. It was Alexander the third who held this Councell at Tours in the year 1163.*

Popes election
of Bishops pre-
judiciall to
Kings.

Lupusep. 40.

Idem ep. 98.

Matth. Westm.

l. 2. sub ann.

1245 p. 192.

Ivo epist. 116.

Can. Porto
dist. 63.

Florentius
Wigornienfis
Monachus in
Chron. sub ann.
1070.
Ivo ep. 238.

Guilielmus
Neubrigensis
rerum Anglic.
l. 2. c. 16.

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A
R E V I E W
OF THE COUNCELL
OF T R E N T.

BOOKE VI.

CHAP. I.

Of things attributed to the Pope by this Councell in matter of justice. And first of criminall causes of Bishops.



EE will treat in this Booke of Justice and Jurisdiction, and wil make it clearly appear that this Councell hath, as far as it was able, robb'd Kings & Princes and other Clergie men of them to bestow them upon the Pope. It is a most true Maxime that all Jurisdictions do spring from secular Princes; that the source and fountaine of them is hereditarie to them, whence the rivulets are derived upon their officers, and upon Ecclesiasticall persons, and others whom they thinke good: Clergie men from the grea-

Kings robb'd
of their jurisdic-
tion.

test to the least have no coactive jurisdictions, but such as spring from thence. Kings and Emperours have parted with it, and have honoured them with it, but in such sort as some of them both did and doe abuse it daily. They are come so farre as to contest with their officers, to attempt against them, to make laws for extending the traine of their robes further; yea even to subdue unto themselves those from whom they received that power; and by a most unsufferable

Council of
Trent unjustlie
exempts Bi-
shops from the
jurisdiction of
Kings.

ingratitude, to declare and pretend them subject to their jurisdiction. All this is proved by us elsewhere. Wee will onely say here that this Council hath gone about as it were to lay at the Popes feet all the spoiles and conquests which all other Bishops have got from those victories obtained by them at divers times over the temporall jurisdiction, and over those to whom it belongs, and to paire also that which is left unto them, making it almost unserviceable and invalid, at least for as much as concerns the Pope and his Clergie, whom it totally exempts from their Jurisdiction.

Conc. Trid. Sess.
24. cap. 5.

2 We shall make it appeare plainly that this Councell hath dealt very liberally with the Pope in this respect, and that it hath strain'd it selfe to confirme his usurpations, yea even to augment them without sparing any thing. First of all it attributes to the Pope the cognizance and judgement of all criminall causes of Bishops, except pettie ones. *That the Pope onely have the cognizance and decision of all criminall causes which are more hainous objected against Bishops, and even of heresie, which God forbid. But if the cause be such as it must necessarily be tried out of the Court of Rome, let it not bee committed to any persons excepting such Metropolitans or Bishops as the Pope shall chuse. That this commission be in speciall, and sealed with the Popes hand, and that hee never give them any greater power but onely to receive the bare instruction for matter of fact, and to make the processe, which they shall forthwith send to the Pope: the definitive sentence being alwayes reserv'd unto the Pope.*

Conc. Trid. Sess.
23. cap. 8.

Conc. Trid. Sess.
25. cap. 14.

3 In another decree it is ordained, *That the causes of Bishops, when by reason of the quality of the crime which is objected unto them, they ought to make appearance, be brought before our holy Father the Pope, and be determined by him.* It is also decreed against Bishops that keepe concubines, *That if they doe not abstaine from that crime after they have beene admonished by the Provinciaall Councell, they shall bee complained of to the Pope by the same Councell, who shall punish them according to the quality of their offence, even by deprivation, if need require.* So that a Provinciaall Councell hath no power to condemne a Bishop for criminall matters, save onely for Peccadillo's; such as we may say for playing at ball, for getting up late in a morning, and such like things.

4 Now wee say on the contrarie, that the cognizance of such crimes belongs to Emperors and Kings: That they themselves of crimes have proceeded to judgement: That they have assembled Councils for that end, and have assisted and presided there: That sometimes they have committed the same judgement to the said Councils, or their Judges: That Popes themselves have become petitioners unto them, yea plaintives before them, and which is more, have themselves beene judged by them.

Socrumen. l. 2.
cap. 27.

5 The Bishops of the Nicene Council, acknowledge Constantine for their Judge; when they presented their Libels unto him, wherein they accused one another; hee blush'd at that in their behalfe; and would have covered their shame by suppressing such Investitures, using this honest shift to them, that they could not be judged by any man. In which the Pope alone tooke him at his word; although hee were absent, and hath made good use of it afterwards. Now that Constantine said this by way of complement, and to suppress those dishonorable quarrels, appears from hence, that upon other occasions hee either tooke the judgement upon himselfe in the causes of Bishops, or committed it to his Officers. Hee made the Bishops of the Synod of Tyre to come unto him, to render a reason of their fact in the condemnation of Athanasius. And after hee had heard them, confirmed their sentence, being moved so to doe by the testimony of false witnesses which were subborn'd; and sent Athanasius unto banishment into Tryer a citie in Gallia Belgica.

6 The same Emperour, after hee had twice ordain'd Ecclesiasticall judges

to determine the cause of *Cecilianus* an Orthodox Bishop; at last he himselfe tooke it into his cognizance, and gave the finall sentence. So say the Clergy of *Hippo* in *Africa*, in that epistle which *St. Augustine* made upon the same occasion, and sent to *Januaris*: Being so stricken in age as you are, we suppose you know very well, how the partisans of *Donatus*, of their owne proper motion, accused *Cecilian*, then Bishop of *Carthage*, before that ancient Emperour *Constantine*. And he afterwards addes, that the Emperour made an end of that Episcopall cause after he had the hearing of it.

Emperours and their Officers judge the Clergy.

August. epist. 68. & 162.

7 The Emperour *Constantius*, having judged of the great impietie of *Aetius*, sent him presentlie into banishment, and commanded that he should be carried unto a certaine place of *Phrygia*, saith *Theodoret*. The forme of proceedings is set downe by *Sozomen* a little more at large, from whence we learne how *Honoratus* governour of *Constantinople*, was first elected and deputed to proceed to the judgement of that Deacon, and how the Emperour himselfe tooke it afterwards into his own hand. While these twentie Bishops sent from both Councels were at *Constantinople*, together with some others who met there occasionally, power was first given to *Honoratus*, whom the Emperour had appointed governour of *Constantinople*, to judge the cause of *Aetius*, in the presence of the Counsellours of the great Councell. But *Constantius* afterwards having taken the same cause into his cognizance, together with the Magistrates, *Aetius* was found to thinke amisse of the faith, insomuch that both the Emperour and the rest were greatlie offended with his words full of blasphemie.

Theodoret. l. 2. cap. 27.

Sozomen. lib. 4. cap. 22.

8 Saint *Augustine* intreats *Apringius* proconsull of *Africa* and *Marcellinus* the tribune, to condemne certain Clerks, partisans of *Donatus*, to a more gentle punishment than they had deserved, acknowledging them for Judges in Ecclesiasticall causes. He speaks thus unto the Proconsul, interceding for his enemies. Why will you not mitigate your sentence, seeing it is lawfull for Judges so to doe, even in other causes which doe not concerne the Church? And a little after, When their enemies are too mildlie proceeded against, men are wont to appeale a Minor. Wee love our enemies so well, that if we had not a good opinion of your Christian obedience, we would appeale from the severitie of your sentence. This is spoken by a man which approved their jurisdiction, otherwise hee would have said they had nothing to doe to judge of the controversy.

August. ep. 159. 160.

9 The Emperour *Gratian* granted a commission to *Sapor*, one of his chief officers, to eject the *Arrian* Bishops out of their Churches, and replace the Orthodox in them, according to the law which he had made. By virtue of this commission *Sapor* judged of the difference which was betwixt *Paulinus*, *Apollinaris*, and *Meletius* in point of Religion, deposing the one and establishing the other. *Sapor* (saith *Theodoret*) being appointed Judge of those matters which were urged on either side, adjudged the Churches unto great *Meletius*. *Paulinus* remained Bishop and Pastor of those sheep whom he had formerlie separated from the rest, and *Apollinaris* being rejected from the government of the Churches began openlie to publish that doctrine which hee had latelie invented, and declare himselfe the head of that sect.

Theodoret. l. 5. cap. 5.

Idem Theod. l. 5. cap. 2. & 3.

10 *Maximus* the Emperour of the *Gauls*, received the appeale which was put in by *Priscillian* Bishop of *Spain*, from the Councell of *Burdeaux*, to whom hee had committed the judgement of him. Hee deputed *Euodius* one of the governours of his Provinces, Who after he had heard *Priscillian* in two judgements, hee being convinced of the crime, was by him pronounced guilty, and sent to prison againe, till such time as he had certified the Prince of him. The processe being related at Court, the Emperour was minded that *Priscillian* and his complices should bee condemned to death.

Sulpitius. 3a. ca. hist. l. 2.

Bishops judged
by Emperours.

Commonitorium
Imperatoris ad
Elpidium.
Añ. 1. Synod.
Chalced. to. 2.
Conc. p. 137.

Conc. Chalced.
Añ. 1. tom. 2.
Conc. p. 135.

Conc. Chalced.
Añ. 14. tom. 2.
Conc. p. 315.

Eadem Añione
14. p. 325.

V. Tom. 1. Juris
Græco-Romani
l. 3. Sentent. Sy-
nod. c. 5 p. 223.

Justinian. No-
vell. 24. De de-
positione An-
themii.
V. Euagrius
l. 4. c. 11.

Theod. l. 2. c. 15

Sozom. l. 3. c. 9

11 Sometimes the Emperours themselves, or their Officers, proceed to the judgements and condemnations of Clergymen, with Councils called for this purpose, by the authoritie of the same Emperours. So *Elpidius*, and *Eulogius*, Magistrates and Officers, were commanded by *Theodosius* to assist at the second Council of *Ephesus*, where the condemnation of *Eutiches* was controverted. Their Commission runnes thus; 'To be present at the judgement, and to take order that a speedy and pertinent prooffe be made by the Synod, and sent to the Emperour. Those who had beene *Eutiches* his Judges before, being now present, but not Judges.

12 Wee read in the Acts of the Councell of *Chalcedon*, of a petition put up by *Eusebius* Bishop of *Dorylea*, directed to the Emperours *Valentinian* and *Martian*, where hee intreats them that they would grant the cognizance of the injurie which had beene done unto him by *Dioscorus* Bishop of *Alexandria*, unto the second Councell of *Ephesus*, and of the death of *Flavianus* Bishop of *Constantinople*, whereof the same *Dioscorus* was accused at the Synod of *Chalcedon*. 'To the intent that it may heare us (these are the very words) and also *Dioscorus*, and report unto your pietie all that passeth, that you may doe in it, as it shall please your clemencie. Wee read there also another petition of *Savinian*, Bishop of *Lefina*, exhibited unto the same Emperours whereby they are intreated To command that his cause may bee examined in their presence: it was so in the presence of the Officers and Magistrates, who passed sentence upon it in full Councell: ordaining that *Savinian* should continue in his Bishopricke, yet with a Proviso. Which was agreed unto by the whole Council. Where it is to bee observed, that these Magistrates first judged of the cause, and pronounced the sentence, and afterwards asked the Fathers of the Council whether they liked it or no. 'The holy Synod (say they) having heard what sentence wee have past, let them say whether they decree the same, or whether they be of another opinion. The holy Synod said, There is nothing more just nor more upright.

13 In the third booke *Juris Græco-Romani*, in the first tome, we read this Decree concerning the deposition of a Bishop. 'John *Amathunt*, Bishop, having been depos'd by *John* Archbishop of *Cyprus*, and the Decree of that deposition having beene read at the Emperours tribunall, having found that he was depos'd by fiftene Bishops, and one Archbishop, the most holy Patriarch *Luke*, with the assistance of his Synod, and the Senate there present, ordain'd that such deposition was invalid, and of no account, because the whole Synod of the Church of *Cyprus* was not assembled.

14 Sometimes the Emperours confirmed the sentence of the Synods containing such condemnations. As *Justinian* did that of *Anthemius* Archbishop of *Constantinople*, and of some others, deposed by a Synod of *Constantinople*. And that because those condemnations were found to bee invalid, if they were not fortified by the Emperours, to whom such jurisdiction did properly appertaine. *Justinian* after hee had made the confirmation aforesaid, saith, If there bee any other thing contained in the sentence of the most holy Bishops, which deposeth, and anathematizeth the persons aforesaid, wee also ordaine the like more firmly, and with more continuance, and wee make it of force by our Imperiall lawes, just as if it had beene a thing done by our owne command.

15 The Popes have so farre beleev'd and holden for certaine this jurisdiction of Emperours over Bishops and other Ecclesiastiques, that they themselves have been intercessours unto them, to get them to proceed unto such judgements. Pope *Liberius* intreated the Emperor *Constantinus*, that hee would make the cause of *Athanasius* be judged, If your clemencie thinke good (saith hee) that you would let him be judged. Pope *Iulius* had recourse to the Emperour *Constans* in behalfe of the same *Athanasius*, and of *Paul*, who presented

red him with letters directed to his brother Constantius upon the same occasion.

Kings jurisdiction conferred by Popes.

16 Gregory the Great intreats the Kings of France Theodoric, and Theodoric to doe justice to Ursiclus Bishop of Turin, To make justice in all things be observed towards him, and the truth being knowne, to make that be amended which hath beene unlawfully committed against him; and to cause that to be restored with equitie which was taken from him by violence. This Bishop had beene deposed, and another put in his place. The same Pope after he had divers times intreated the same Kings of France to call a Councell in their Realme, for restraining of the crime of Simonie, which was at that time verie rife, writ at last to Queene Branchant in these termes; Let your letters be directed unto us, and if you command us with your consent and authoritie, we will send you some on our behalfe, to inquire straitly into these things, together with the rest of the Clergy, and to make such reformation thereof as shall be acceptable to God. For these things ought not to be dissembled: inasmuch as hee that hath power to correct them, and notwithstanding neglects to doe it, makes himselfe a sharer in the fault.

Gregorius in Registr. l. 7. ep. 118. Indist. 2.

Idem Greg. l. 9. ep. 64. Indist. 4.

17 Gratians Decret gives further credit unto this Imperiall jurisdiction over Bishops in criminall causes: considering that there is a certain Pope, whether it bee Gregorie or Pelagius, speaks on this manner; Behold what wee demand and require further, that you would send unto the most gentle Prince, Paulinus that false Bishop of Aquileia, and that other of Millaine, under good and sufficient guard; to the intent that he who can no waies be a Bishop (inasmuch as hee was created contrary to all canonicall custome) destroy not others; and hee who hath attempted to ordaine against the ancient custome, may be submitted unto the punishment of the Canons. Hee that collected the summarie of this Canon conceives some policie in it, when hee saith; That those should be corrected by Princes, who cannot be corrected by the Church; making the rule by this means no more than an exception, as hee oftentimes makes rules of exceptions. But it may be hee meant that these Bishops could not by right be corrected by the Church, because she hath no such power. If this be his meaning, wee take him at his word. There is yet more in it, for the Popes themselves have undergone this jurisdiction, have beene judged, condemned, and deposed by the Emperours. Wee have given examples of it when wee treated of the power of a Councell above the Pope which wee will not now repeat.

Can. istud. caus. 11. q. 1.

18 By the law of the Emperours Valens, Valentinian, and Gratian the cognizance of crimes committed by Ecclesiasticall persons, is reserved to the Magistrates. Arcadius, Honorius, and Theodosius declare the judgements passed by Episcopall Synods upon the crimes of Priests to be valid, so as they cannot bee disannull'd by themselves. Honorius and Theodosius will have Clerks to be accused before their Bishops. Iustinian's Novel gives the cognizance of civill crimes by them committed unto the Lay Judges; and of Ecclesiasticall to the Bishops: so that this cannot be understood but of the manner sort of Clergy men, such as are inferiour to Bishops. And of these it is spoken in another constitution which forbids the Civill and Militarie Judges and Magistrates to call them before them for civill and criminall matters, unless they have the Princes command for it. Where two things are to be considered; one, that it is an Emperour which ordaines it, and therefore hee hath the disposal of it; the other, that he reserves unto himselfe the cognizance or authoritie.

L. qui mos. 23. C. Theod. de episcop. eccles. & Cleric. L. 2. Cod. de Episc. Judic. L. Clericos C. Theod. de episcop. eccles. & Cler. Novell. Justinian. 83. ut Cleric. apud prop. Episcop. Novell. Justin. 123. c. 8.

19 The Councell of Milevis, holden in the year foure hundred and two, confesseth and avoweth this Imperiall jurisdiction; It pleaseth us (say the fathers of it) that whosoever shall demand of the Emperour the cognizance of publique judgements, be deprived of his dignitie. But if he desire of the Emperour onely the exercise of Episcopall judgement, that can no way hurt him. The judgement

Cap. 19. Conc. Milevis. tom. 1. Cons. p. 307.

Kings judge
Bishops.

ment over Lay men in publique crimes, was thought to suit ill with Bishops : and therefore it is condemn'd in this Councell : the other is permitted, but so as they tooke it from the hands of the Emperour. It is strange that in all these places there is no mention of Popes, no more than if there had beene no such men in the world.

Can. 6. Cencil.
Constantin. 1.
apud Balsamon.

30 The sixt Canon of the first Councell of *Constantinople*, disposeth somewhat boldly of Ecclesiasticall jurisdiction, to the prejudice of the Imperiall right, in attributing the judgement of crimes committed by Bishops unto provinciall Synods ; and forbidding them to have recourse either to the Emperour, or other secular Princes for judgement, or to a Generall Councell, despising that Decree, and neglecting the Bishops of particular Dioceses. It was a little too much entrenched upon the Emperour. Howsoever we draw from hence this advantage, that in the making of this Order about Episcopall judgements in criminall matters, the Pope was never reckoned of. And yet the Councell of *Trent* gives to him alone the criminall and supreme jurisdiction in the first place over all other Bishops in the world : in such sort as neither the Emperour, nor Kings and Princes, nor their Officers, nor Synods either Provinciall or Generall can intermeddle.

Gregor. Turo-
nenfis l. 5. c. 20.
Almonius l. 3.
cap. 28.

31 Let us now speak of our *France*, and shew the prejudice done unto it by this Decree. In the time of our ancient Kings, the Bishops upon any crime whatsoever, were accused in a Synod of the Churches of the Realme. So *Guntrand* King of *Burgundy* caused a Synod to assemble at *Lyons*, where two Bishops, *Salomon* and *Sagittarius*, were accused, convinced, and condemn'd, and put out of their Bishopriques, for some crimes by them committed. It is true, that by their flatteries they prevailed so farre with the King afterwards, that he gave them leave to have recourse to Pope *John*, to whom also he writ in their behalfe : yea upon the request afterwards made unto him by the Pope, hee restored them to their Bishopriques. But all this was done onely by way of courtesie and complement ; and because the King himselfe sought a faire way to restore them to their charge and dignities without offending the Synod.

Almonius l. 3.
cap. 26. & 64

32 King *Chilperic* having called an assembly of Bishops and Prelats in his Citie of *Paris*, brought *Pretextatus*, Bishop of *Roan* before them, saying these words unto them ; *Although the royall power may by the lawes condemne one that is guiltie of high treason ; notwithstanding that I may not oppose the ancient Canons, I present this man unto you, who hath falsly usurped the name of Pastour, the author of the conspiracie made against me.* At last hee was condemn'd to banishment, and afterwards recalled and restor'd to his citie and Bishoprique by the King himselfe. *Chilperic* assembled another Synod to try the accusation of high treason objected against *Gregory* Bishop of *Tours*, grounded upon this summe, that he would have delivered the Citie of *Tours* to King *Guntrand* ; where he was acquitted as not guilty, and *Lendastus* his accuser excommunicated. *Chilperic* also upon an accusation brought by one *Sunnigisilus* against *Giles* Bishop of *Rhemes*, as guiltie of a conspiracie against King *Childebert*, caused him to be apprehended and carried to the Citie of *Mentz* : where he assembled some Bishops, who proceeding to judgement upon him, deposed him from his Bishoprique, and confined him to *Strasbourg*. *Didier* Archbishop of *Guion* was deposed at a Provinciall Councell assembled by the same King at *Chaalons* in *Burgundy*.

Almonius l. 3.
cap. 43.

Greg. Turon.
l. 10. c. 26.

33 *Childebert* and *Guntrand* made certaine Bishops assemble, to proceed in judgement upon the Abbess and her Religious of *Poitiers*. Wee are met together (say those Bishops) by the command directed unto us, by virtue of your power. Bishop *Adalbert* was condemned of heresie by three and twentie Bishops at the Councell of *Soissons*, with the consent of King *Pepin*, and of the people

people and the Counsell of the greatest Peeres in *France*. The like was done unto three Bishops accused of conspiracy against King *Lewes* the Piteous, by the sentence of a Synod assembled to that end by his command. So King *Charles* the Bald assembled some Bishops to condemne his sonne *Carloman*, who was a Clergy man, and his complices of the same profession.

Bishops judged by Princes, not Popes.

Synod. Sueffion. To. 3. Concil.

P. 438.

Aimonius l. 4.

cap. 106.

Idem lib. 5. c. 27

Aimonius l. 3.

c. 49.

Greg. Turon.

l. 6. c. 22.

Greg. Turon.

l. 6. c. 11.

Greg. Turon.

l. 6. c. 24.

Aimonius l. 4.

c. 83.

24 Sometimes our Kings proceeded to judgement by their owne sole authoritie, without ever assembling the Clergy. So *Chartier* Bishop of *Perigord* was accused before King *Chilperic*, upon occasion of some letters writ against him, and was acquitted because it could not be proved. One *Theodorus* Bishop of *Marseilles*, was also brought and accused before King *Childebert*; but in conclusion, absolved as not guiltie: and accused after that, together with another Bishop called *Epiphanius*, that they had received into *Marseilles*, *Gundebaldus*, who said hee was the sonne of *Lotharius*: who after they were heard, examined, and found not guiltie, were notwithstanding kept in prison.

25 We read notwithstanding that King *Charles* the Great called an assemblie of Bishops, to heare *Felix* Bishop of *Orgelle*, who was accused of heresie, and being convinced, he was sent to *Rome* to Pope *Adrian*, before whom hee abjured his heresie, and was sent backe to his Bishopricke. But it may bee answered that this was not properly an accusation, but only a dispute; and that when the Bishops of *France* had heard and convinced him of errour, they would doe Pope *Adrian* that honour as to send him to him, that hee might have the hearing of him afterwards. So his heresie was condemn'd yet after that at the Councell of *Francfort*, as appears by the Acts of it.

26 The Popes were anciently so stanch in this regard, that they tooke not upon them upon their owne accord to judge of the crimes of other Bishops, save onely such as were of their owne Diocese; but suffer'd those to proceed upon them to whom of right it appertained. So the Clergy of *Valentia* having accused *Maximus* their Bishop, to Pope *Boniface* the first, of many grievous and heinous crimes, hee would not meddle in it, but return'd the judgement to the Bishops of *France*. They would not take the cognizance of them, neither in the first place nor by appeall, not even then when the Bishops of a Province were divided (which yet was a faire pretence) but in that case they were cal'd in judgement before the Metropolitan and other Bishops of the next Province; according to the fourteenth Canon of the Councel of *Antioch* inserted in the Decret: From which the Canon *Hofius* inserted in the same Decret doth no way derogate, which speaks of civill controversies amongst Bishops, and not of criminall causes; as appears by the fourth Canon of the Councel of *Sardis* from whence it was taken. In which case it was granted as an honour to *Saint Peters* chaire, that if either of the two Bishops bee not content with the judgements given by some of their fellow Bishops, that they shall write thereof to the Bishop of *Rome*, to the intent that if hee thinke good they should proceed to judgement againe, his advice may be followed and and that Judges may bee assign'd unto them by him.

Epist. 2. Bonif.

1. To. 1. C. nc.

Et Can. Decernimus. 3. q. 10.

Can. Si quis episcopum. 7 q. 4.

Can. 1. 7. q. 4.

Can. alt. 7. q. 4.

27 But to returne to criminall matters. Such processe was ancientlie used concerning them in this Kingdome, as wee have said already. That jurisdiction at this present is divided betwixt the Kings Officers and the Clergie of *France*. The Judges Royall have the cognizance of privileged causes, such as are high treasons, tumults, seditions, ambushes, bearing of armes, assassinations, and such like: in respect of which they may proceed, and pronounce against all kind of Clergy men, yea even against Bishops and Archbishops. As for other crimes which are called common, such as are actions of trespassse, battery, concubinages, murders, forgeries, and such like, the officiall and other Ecclesiasticall Judges have the cognizance of them. If I should make these ex-

Rr

positions

In what cases
the Lay Judges
have power to
over the French
Clergy.

positions in the Palace, I should be afraid that all the Proctors would cast their caps at mee, to whom this is sufficiently knowne. But considering the foundations of our practise are shaken, and are like to be cut up by the root, it is requisite that I make this rehearse, and that I bring authorities for prooffe of my assertion, for feare I bee accus'd of ignorance in a matter which every one knowes.

This distinction of crimes in the person of Clergy men, is approved by the Ordinances of our Kings, mention is made hereof in that of King Francis, of the year 1540. Article the eleventh made at *Castile-Briant* the year 1551. And that of Henry the third made at *Paris* the year 1580. Article the twentieth one. Come wee now to the practise of our Courts. This distinction hath alwaies bene observed by all the Courts of *France*, who have set downe the very forme which must be observed in such proceedings; who have decreed That the processe shall bee made, and finished by the Judge Royall, upon a priviledg'd case, before it bee remitted to the Ecclesiasticall Iudge, notwithstanding the declinatory. That for tryall of the case Royall, it shall bee lawfull to proceed even unto torture inclusively. That for the crime of Adulterie, committed with notorious fornication a Bishop or other Clergy man is under the jurisdiction Royall. As also for the accusation of forgerie by him committed. That a Lay Iudge upon just cause may make the processe made by the Officiall upon a common offence be brought before him. And notwithstanding the absolution from the common offence, condemne the party accused upon the priviledged case. And an infinite number of other rules, which it would bee tedious to rehearse. To urge the testimonie of our common Lawyers, as of Mr. *Giles Burdin* upon the Ordinances of the year 1539. Mr. *John Imbert* in his institutions of common law. Mr. *Choppin* in his treatise *Du Domaine*, and many others, would be a thing superfluous.

a Papon de ju.
risdict tempo.
rali art. 34.
b Papon ibid.
art. 35.
c Idem tit de
adult. art. 17.
d Idem tit. de
jurisd temp.
art. 43. & 44.
e Idem ibid.
art. 37.
f Idem ibid.
art. 46.
g Papon ibid.
art. 33, 34, 38,
39, 41, 45, 47.

CHAP. II.

Of Delegations, and Evocations.



The Popes Jurisdiction and authoritie is greatly augmented, and inhaunted in this, that the Bishops and other Ecclesiastiques are made his commissaries and Delegates in divers cases, which are of their owne proper and naturall Jurisdiction. It is said in the first chapter of the fifth Section, That in the Monasteries of Monks, where it may be conveniently done, there shall bee a lecture read out of holy Scripture. And that in case the Abbats be negligent, the Bishops of that place must compell them by convenient remedies, as delegates for the See Apostolicall. Now there is no doubt of difficulty, but it belongs to Bishops to provide herein by their owne proper authoritie, in case of the negligence of Abbats. For the Abbats, Monks, and Monasteries are subject to the Bishop of the Diocese where such Abbays stand, and they are under his power and Jurisdiction by the 21. chapter of the Council of *Orleans*, Canonized in the Decret. They may depole the Abbats upon sufficient cause. They must take care for the profit and advantage of the Monasteries and Abbays. See that no alienation bee made by the Abbats without their consent.

Can. Si quis 18.
quast. 2.
Can. Si quis
Abbas. 18.
q. 2.
Can. Cognovi-
mus 18 q. 2.
Can. in venditi-
onibus.
Caus. 17. q. 4.

2 As for that which is decreed, that the Abbats shall cause a lecture in divinitie to be read, it is a thing which they are bound to doe in France, by virtue of the 20 Article of the Ordinance of Orleans, whereby the Superiours and heads of the Orders are enjoyn'd to take care of, & diligently to proceed to a full reformation of Monasteries. And it is further said, *That in every one of the said Monasteries, there shall bee maintained a good and able man to teach holy Scripture, and a stipend allowed him at the charges of the Abbat, or Prior.* Now the word Superiours may bee as well referr'd to Bishops as to Abbats and Priors, in case these be negligent. Howsoever this power is not given unto Abbats and Priors as Delegats, or by way of privilege, but belongs unto them by common right. It ought also to agree unto Bishops by the same right, where the privilege of exemption ceaseth.

Ordinaries by
this Councel
made the Popes
Commisaries.

3 In the second Chapter of the same Session, where Curats are enjoyn'd to preach upon Sundayes and Holydaies, or to provide some to preach in case of lawfull impediment, it is added, *That if there be any Parish Churches under such Monasteries as are not situate in any Diocese, the Prelats regular being negligent in the premises, they shall bee compell'd unto it by the Metropolitans of those Provinces where the Dioceses lye, as Delegats herein for the See Apostolique.* Now it is certaine that Metropolitans have power over the Clergie within their Province, even over the Bishops themselves, according to the honour prescribed by the ancient Canons under the one in the first, and the other in the second place. If an Abbey be subject to the Bishop, the Metropolitan shall have nothing to doe with it, save in case of appeale. If it belong to no Diocese, and consequently to the Jurisdiction of no Bishop, then it must have the Metropolitan for Superiour; unlesse it bee of the number of such as are exempt, which have no other superiour but the Pope, and which are spoken of in the eight chapter of the 25 Session: But the question is not now of such. And suppose they were now in controversie by the eleventh Article of the Ordinance of Orleans, all Abbats and Priors must bee subject to the Archbishop, or Bishop of the Diocese, notwithstanding their privilege of exemption.

4 In the second Chapter of the sixt Session, Bishops are enjoyned as Delegats for the Pope, to provide that there be able Vicars in stead of such Clergy men under their jurisdiction, as are dispensed with for non residence: To which Vicars they must assigne a competent portion of the fruits. Now it is too apparent, that this provision belongs to the ordinary jurisdiction of Bishops, and therefore such Delegation is abusive, and made as well against the ancient Canons, as against the Ordinances of this Kingdome. This is delivered in expresse termes by the constitution of Boniface the eighth, who after hee hath given way that such as are preferred to Parish Churches, may stay seven years before they be ordained Priests, to the intent that they may have occasion to apply their studies, hee ordaines, *That during these seven years, the Bishops and Superiours shall carefully provide that the cure of soules be diligently discharged, and that such benefices be served with good and able Vicars, who shall bee deputed by them; and to whom, in consideration thereof, a competent portion of the fruits shall bee by them assigned for their maintenance.* In all this there is no delegation from the Pope; but this is given to Bishops, as depending upon their Ordinarie jurisdiction.

Cap cum ex eo.
De elect. &
elect. potestat.
in 6.

5 The fifth Article of the Ordinance of Orleans saith in plaine termes, *That the Abbats and Curats who hold many benefices by dispensation, or reside upon one of their benefices, requiring actual service and residence, shall bee excused from residence upon their other livings. Alwaies provided that they depute sufficient men for their Vicars, of a good life and conversation: so every of whom they shall assigne such a portion of the revenue of the benefice as may suffice for their*

Ordonnance
des Estats d'
Orleans l'an.
1560. Art. 5.

Bishops made
Popes Delegates
in matters of
their owne ju-
risdiction.

their maintenance. Otherwise, in default hereof, wee admonish and enioyne the Archbishop, or Bishop of the Diocese to take order for it, and most expressly com-
mand our Judges and Proctours to assist them therein: to cause the temporalities
of such Abbeyes or other benefices to be seized upon without dissembling. a moneth
after they shall have warned and required the Prelats, and other Titulars to re-
side, or cause some to reside upon their benefices, and fulfill the contents of this pre-
sent Ordinance. From hence we collect that the forementioned case belongs
to the jurisdiction regall within this Kingdome, and that the Councel having
given it up to the Ecclesiasticall jurisdiction, and that even to the Pope, hath
infringed the rights of France.

Cap. 1. de pri-
vilegiis in 6.

6 In the third Chapter of the sixt Session, the Councel gives power to the
Ordinaries of the place, as Delegates for the Pope, to visit, punish, and cor-
rect Clerks, both Seculars and Regulars that live out of the Monasterie. No Se-
cular Priest, nor Regular, of what Order soever, living out of his Monastery,
must thinke himselfe so sure upon pretence of the priviledge of his Order, that hee
cannot bee visited, punished, and corrected according to Canonically Constitutions,
in case hee offend, by the Ordinary of the place, as Delegate for the See Aposto-
lique. By the Generall Councel of Lyons, holden under Innocent the fourth,
ann 1346, and approved by the Popes themselves, all delinquents contracting
or committing any fault out of the Monasterie, shall not in that case enjoy
their priviledge of exemption, but shall bee subject to the jurisdiction of the
Ordinaries, without any commission or delegation from the Pope. We ordain
by an irrefragable Decree, that howsoever exempted persons enjoy their libertie,
yet upon any offence, contract, or such thing for which a man may have a suite a-
gainst them, they may be convented before the Ordinary of the place. And the
Glosse upon it; This is true if the contract were made, or the crime committed
in a place not exempted, and if the thing in controversie bee not exempt. So
Scholars not residing in the Vniversities do not enjoy the priviledges granted
unto them: So a Clerke taken in a crime, having not his Clericall habit on,
is subject to the jurisdiction of the Secular Iudge.

a Ordon. du Roy
Loys 12. de l'
an. 1513. con-
firmee par Ar-

rest du Parlement de Paris. du februar 1542. Voyez le recueil des Ordonnances de Fontenay Tom. 4. Tit. 11. de
l'Vniversité du Paris c. 6. b Hostiensis. Abbas. Andreas. Authon. Butrigarum in can. perpendimus de sentent. ex-
com. extra. Petrus de Anchorano in ca. ea que. de regulis juris in 6. Glos. in ca. transmissa. de Election. cap. quon-
iam de vita et honest. Cleric. Can. penult. dist. 23. ca. univ. de cleric. conjugat. in 6. cum ibi notat.

c Capit. 1. &
ibi gloss. de re-
bus Eccles. non
alienand. in 6.
d Cap. exposui-
sti extra de
Prebend. &
dignit.
e Capit. 1. &
Cap. Pastoralis
extra. de bli-
que sunt a
Prelato.
Fid. gloss. in ca.
de rebus Eccles.
non alienandis
in 6.

7 In the third Chapter of the twentie first Session, Bishops are allowed, as
Delegates for the See Apostolique, to assigne unto all such Cathedral and Colle-
giat Churches, as have no ordinary distributions, the third part of the fruits and
revenues to bee imployed in the said distributions. Which is repeated in the
third Chapter of the twenty second Session. This derogates from the power
and jurisdiction of Bishops, to whom the right of providing for the necessi-
ties of the Churches subject unto them doth belong. As to adjudge the
tenth to an Archdeaconrie which hath but little meanes. To joyne and u-
nite Chappels to a Cathedrall Church upon evident necessity or commoditie.
To alter and give away the means of the Church upon just and honest reason,
with the consent of the Chapter. Therefore by the same reason they may
convert some part of the revenues of livings to ordinary distributions, upon
just and lawfull cause, with consent of the Chapter, without authoritie
from the Pope, or without any necessitie of his commission. Which is valid
in this Realme of France, especially where the Popes power is regulated ac-
cording to the ancient Canons and Decrees.

8 By the fourth Chapter of the twentie first Session, the Bishops are De-
legates for the See Apostolique, to compell the Rectours of Churches within
their Dioceses, to take Priests to assist them at the administration of the Sa-
crament,

crament, in case they bee not able to doe it themselves. And by the sixt chapter of the same Session, they are also made commissaries and Delegates to assigne substitutes and assistants, to unlearned and ignorant Rectors of Churches. Which is also decreed to the prejudice of the ordinary jurisdiction of Bishops, to whom of common right it appertaines to appoint such assistants even according to the Decretals of *Lacius* the third, and *Honorius* the third; whereby they declare that Bishops have power and authority to appoint coadjutors to Rectors of Churches in such cases,

Bishops made
the Popes
Commissaries.

Cap. de Retori-
bus &
Cap. consultati-
onibus extra. de
Clericis agro-
rant.

9 In the fifth Chapter of the same twentie first Session, power is given to Bishops, as Delegates for the Pope, to unite Churches and benefices in case of povertie, and such like permitted by the law. And yet this is a thing which agrees unto them by their owne proper right, even by the confession of *Celestine* the third; *It belongs unto the Bishop (saith he) to unite the Churches of his Diocese, and to set one over another.* Which is elsewhere repeated by the Glosse upon the Canon law. And it is confirm'd unto them by the sixt Article of the Ordinance of *Orleans*. See here the words; *And to the end that Curats may imploy themselves in their Charges without all excuse, we enjoyne Prelats to proceed to the union of benefices, distribution of tithes, and other Ecclesiasticall revenues.*

Cap. Sicut und-
re extra. de ex-
cessib. prelat.
Gloss. in Can.
& remporia
16 q. 1.

10 By the seventh Chapter of the same Session, power is also granted them, as Delegates for the Pope, to transerre the simple livings belonging to ruined Churches, which cannot be repaired by reason of their povertie, upon the mother Churches, or others in the Diocese, having called unto them such as are interestted in them: howbeit by the same Decretall of *Celestine* Bishops may submit one Church to another, with consent of the Chapter, by their owne authoritie, without any intervening of the Popes.

11 The same Councell in the eighth Chapter of the seventh Session, makes Bishops the Popes Delegates, for the visitation and reparation of exempted Churches. *The Ordinaries of the place shall bee bound every year to visite all the Churches, even such as are exempted in what kinde soever, by authoritie Apostolique; and to take order by such remedies as are according to law, that those which stand in need bee repaired; and that they bee not unprovided of the cure of soules, if any have it over them, nor of other duties, such as shall bee found due.* It ordaines the like for the Churches which are not within any Diocese, in the ninth Chapter of the twentie fourth Session. All this derogates from the eleventh Article of the Ordinance of *Orleans*, where it is said; *That all Abbats, Abbesses, Priours, Prioresse, not being heads of the Order, together with all Canons and Chapters, as well Secular as Regular, whether of Cathedrall or Collegiate Churches, shall be equally subject to the Archbishop, or Bishop of the Diocese, so as they cannot helpe themselves by any priviledge of exemption, in regard of the visitation and punishment of their crimes.* By this Ordinance the visitation belongs to the Ordinarie Jurisdiction of Bishops. By the Councell it belongs to the Pope, and is conferred upon the Prelates as his Commissaries.

12 There is yet more; which is that by the same Councell the Archbishops, and Bishops cannot visit the Churches and Benefices of their Dioceses, and take order for the reparation of other things necessary, but by virtue of the same Delegation. For behold what is ordain'd concerning it in the eight chapter of the twentie first Session; *It is reason that the Ordinary doe diligentlie provide for all that concernes divine service within the Diocese. Wherefore the Monasteries in Commendam, the Abbeyes, Priories, Provostships not tied to a regular observance, as also the Benefices, whether they have cure of soules or no, Secular and Regular, in what kinde soever of Commendam they bee holden, even such as are exempted, shall bee visited by the same Bishops, as Delegates for*

Visitation of
Hospitals.

Can. Decrevi-
um. 10. que. 1.
Vid. Conc. Tar-
racon. cap. 8.
Tom. 2. Conc.
pag. 526.
Can. Episc. 10.
q. 1.

Seff. 22. c. 3.

Clement. Quia
contingit. de
religiosis domi-
bus.
Voyes le recueil
des Ordonances
fait par Fonda-
tion. Tit. du
Grand Conc.
ch. 7.

V. Ibid. Tom. 4.
tit. 27. des wa-
lad. & Hospit.
ch. 4.

the See Apostolique: and the same Bishops shall take care by convenient remedies, even by sequestration of fruits, that necessarie reparations bee made and done. By this Chapter the Bishops are deprived of their ordinarie power in case of visitation, in as much as they are now made Commissaries in that respect: which is contrarie to the ancient custome, and the Decree of the Councell of Tarraco registred in Gratians Decret. Wee ordaine that the order of ancient custome be observed, and that Dioceses bee visited by the Bishops every yeare. And if any Church be found destitute, that the reparation thereof bee enjoyned by his Ordinance. Item, against the Decree of the fourth Councell of Toledo, where it is said; That the Bishop ought every yeare to goe over all the Diocese, and in every Parish to enquire in what need of reparation the Churches stand.

13 The Royall jurisdiction in France suffers prejudice hereby, considering it belongs to the Lay Judges to take order for such reparations, as wee shall prove in another place hereafter. But that which is ordained in the tenth Chapter of the twentieth fourth Session is yet more exorbitant: namely, That the Bishops as Delegates of the holy See have power to ordaine, rule, punish, and execute according to the determination of the Canons in all things which concerne the visitation and correction of their subjects. Whence it will come to passe that if a Bishop condemne any of the people under his jurisdiction for eating an egge in Lent, or any such like thing, hee must trudge to Rome to get his sentence made good.

14 The like here is decreed concerning the visitation of Hospitals, Fraternities, and all kinde of sacred places, Colledges, and Schooles: For it is given unto the said Bishops, as Delegates for the Popes, although it belong unto them by virtue of their ordinarie jurisdiction, by the Decree of the Councell of Vienna, holden under Clement the fifth: at least for asmuch as concernes Hospitals. And in our France such visitations belong to the Lay Judges, and especially to the great Almoner, who hath the super-intendence of them. So saith King Henry the second in expresse termes, in his Ordinance of the yeare 1552, Our great Almoner (saith he) hath the super-intendence & cognizance over the Hospitals and Spittles of our Kingdome, that they bee well and duly maintained, as well for the reparation of them, as for the employement of the moveable goods thereunto belonging. And whether the poore sick folke and distressed persons resorting unto the said Hospitals, bee entertained, and lodged, maintained, and fed according to the revenues of the said Hospitals. As also to compell the masters, and Administratours of such Hospitals, to make account of the said meanes and revenues. See here that which comprileth every part of the visitation, and all that belongs to the office of him that is to bee the visiter.

15 By another Ordinance of King Francis, dated the fifteenth of Januarie 1546, the visitation of the said Hospitals, and other charitable places is committed to the Judges Royall, Ordinaries of the place where such Hospitals are situate. All Governours and Administratours of Hospitals, or other charitable foundations shall be compell'd by our Judges of the places next adjoyning, to give up their accounts of the revenues and administration of the said Hospitals, by what titles soever they hold them, together with the charters and titles of their foundation, if they have any, within two monthes after the publication of these Presents. Whom wee command and expressly injoyne, everie one respectively within his Precincts and jurisdiction, that immediately after the publication of these presents, they visit the said Hospitals and charitable foundations, to enquire of the revenue estate, and reparation of the places, and the number of beds, and poore people whom they shall finde there. It is true that upon the publication of the said Ordinance, there was some opposition made by certaine Bishops and Abbats of this Kingdome, and by the grand Almoner; but upon the said opposition there was no more decreed by the Court of Parliament of Paris, but this, That with-

out any regard therunto had, they should proceed to the publication, ordaining nevertheless *That within every one of their Ecclesiastical Precincts, each Ordinary, Bishop or Abbat, & the grand Almoner might commit and delegate one or two honest men to assist the Judges who were to execute the said letters patents, yet without hindring or contradicting the said Judges, in such manner as that the Kings will and pleasure might bee put in execution.* This Ordinance was yet further confirm'd by another of the same King Francis dated the sixth of Februarie 1546. And by another of Henrie the second, the twelfth, of Februarie 1553.

Delegations a
wrong to
whom.

Arrest of the
Parliament of
Paris Febr. 4.
1545.

16 With better reason may wee say that the visitation of Schooles erected for the institution of youth should belong to Lay Iudges. Howsoever it bee, such visitations are not cases reserved to the Pope, and therefore this Delegation is against the rules of the Canon law: As is that also which is granted unto them for the execution of things given to pious uses in such cases as are allowed by the Law. *The Bishops (saith the Councell) as Delegates for the See Apostolique, shall bee executors of all pious donations, given as well by last wills and Testaments, as by those which are yet alive, in such cases as are permitted by the law.* Now by the ancient Decrees they are executors of such donations, *Iure proprio.* Witnesse Gregorie the ninth in a decretall of his, *Be it that all testaments to pious uses should bee taken care for by the Bishops of the places, and that all things should be confirmed according to the will of the deceased.* Howbeit the testators themselves should have prohibited, &c. Which he further confirms in another Decretall. *The executors appointed by the Testator, after they have undertaken that charge, ought to bee committ'd by the Bishop of the Diocese to performe the will of the Testator.* The like was ordained by the constitution of the Emperour Anthemius. *If the Testator (saith he) hath expressed the summe of the legacie or Testament in trust given to pious uses, without appointing the partie (that shall bee executor of his will) the Reverend Bishop of the citie where the testator was borne, hath power to exact what was bequeathed to that end, executing the holy intention of the deceased without any delay.*

Can. 8. Sess. 22.

Greg. in cap. tua
extra de testam.

Idem Greg. in
cap. trans
extra de testa.
L Nulli. C. de
Episcop. et Cler.

17 A man might observe divers other Articles of this Councell where such delegations are granted to Bishops and Ordinaries which is as much as to annihilate their intire jurisdiction, and devolve it upon the Pope, that so all may depend upon him, and his power may be so much the greater. Wherein many men are prejudiced: to wit, the Bishops who loose that which belongs unto them, having it onely by way of loan, or in a precarious manner: The Metropolitans who are hereby deprived of the appeals which should come unto them from the sentence of the Bishops: And the Lawyers as well Ecclesiasticall as Lay, who must bee constrained to goe to Rome, either to voyd the appeals which will be put in, or at least to get new Commissioners, in case hee faile to appoint the judgement *In partibus*, according to the liberties of France, which will be as great a foile as can be imagined.

18 We will now speak of Evocations: which is another mightie means for the Pope, to make him absolute Lord of all Ecclesiasticall justice: to get the cognizance of all causes which hee shall thinke good: to make his Court more frequented than ever it was. This Councell after it had decreed that the judgement of causes cannot bee taken from the Ordinaries by any extraordinarie commissions, Evocations, nor Appeals; it addes, *Except in such causes as ought to bee tried before the See Apostolique by Canonick Constitutions, or such as the Pope of Rome shall thinke fit to bee committed or removed upon some urgent and reasonable cause, by speciall commission from his Holynesse, signed with his owne hand.* Now hee will alwayes find urgent causes enough to draw the proceffe to Rome: there will never want pretences; if hee get but a hole, that

The bad consequence of evocations.

Gloss. & addition in Can. 1. ad verb. Quid eum. dist. 40.

sess. 32. Conc. Basl.

thats enough, how little soever it bee, hee will finde meanes to enlarge it. And besides, who will tell the Pope that the cause is not reasonable? That were to make himselfe be pronounced a heretique. *It is a kinde of Sacriledge to dispute of what hee does: yea, it is a mortall sinne, saith their Glosse upon the Canon law.*

19 Wee shall here entreat the reader to remember what wee discours'd in the second book, touching the Popes attempts in point of justice, the miseries that proceed from thence, and the great complaints that have beene made of it. Wee tumble backe into all these miseries againe, by receiving of this Councell. The Popes used it formerly by usurpation; now they will doe it with some title, and so with more licence. Wee shall content our selves with setting downe here what was spoken concerning this matter by a whole Councell, to wit, by that of *Basl*, one of the most famous that hath beene holden in these later daies. *Divers abuses and intolerable vexations have grown hithertowards, whiles many men were very often wont to be cited and called forth to the Court of Rome, and that sometimes even for pettie things, and were so wearied out with expences and travaile, that they thought it more commodious for them to forgoe their right, or with great losse to redeeme themselves from such vexation, rather than bee at the charges of the suit in a countrey so remote. So it was an easie matter for slanderers to oppresse poore men. So Ecclesiasticall livings were oft got by wrangling shifts and evasions in the Suit, while their meanes were not sufficient for the true owners, or others that had right unto them, to defray the charges required as well for the journey to Rome, as the pleading of the cause there. Hence also proceeds the confusion of Ecclesiasticall order, when the jurisdiction of the Ordinaries is not preserved unto them. The money and meanes of Kingdomes and Provinces are not a little impaired by this meanes, and (which is a thing acknowledged to bee very harmefull to all Ecclesiasticall Orders) those which by reason of their worth were called to the greatest affaires of Christendome, were made lesse serviceable in them, being too much employed in the multitude of such causes. Such evils and disorders as these, gave occasion to the Fathers of that Councell to prohibit all evocations in that kind. Which was confirm'd by the Pragmatique Sanction of *Bourges* in the title, *Of Causes*, where the same things are rehearsed.*

CHAP.

CHAP. III.

Of giving temporall jurisdiction to Ecclesiasticall persons.



His Councell useth such marvellous good husbandrie, and carrieth all things so handsomely to its proposed end, that at the last reckoning all the world is well appaid, except Kings and Princes for whom the springe was set. We have seen the Bishops already stript of their jurisdiction, and turn'd into their bare shirts. Now we shall make it appear that what is taken from them on the one side, is restored to them on the other, all to the prejudice of Secular powers, whose jurisdiction is invaded, and usurped upon, to the advantage of the Bishop of Rome, into whom as into a vast Ocean, all these pettie rivers emptie themselves.

The Councell
entrencheth
upon the Civil
jurisdiction.

2 It is a Papall maxime, holden for a certain and undoubted truth. *That all Bishops receive their jurisdiction from the Pope.* They take an oath unto him else where, and that a very strict one, & they are bound by this Councell, to promise true obedience unto him at the Synods of the Diocese. So that there can be nothing ascribed unto Bishops in point of jurisdiction, but the Pope hath a share in it (as fathers have in the purchases of their children, & masters of their slaves) but their authoritie and power will ever receive some enlargement thereby. This preface will serve as a candle to give light unto the interests of Kings and Princes in all the particular cases which shall bee hereafter specified.

a Bellarm. To. 4
C. controvers. 3.
l. 4. cap. 34.
b Conc. Trid.
Sess. 25. c. 2.

3 This Councell then, to the prejudice of the Secular jurisdiction, gives unto Bishops the power of punishing the authors of 'defamatorie Libels, of the printers of them, of Sorcerers, Conjurers, and such like people, of those that contract 'clandestine marriages, or are witnesses, and assistants at them: the cognizance of all causes matrimonial without distinction, of all rights of patronage; both Lay and Ecclesiasticall; the jurisdiction to compel the inhabitants of any parish to allow maintenance to their Parish Priests; the visitation of all benefices, both Regular and Secular: the cognizance of the reparations of their buildings, as also the power of sequestering the fruits of the said benefices; the power of examining the Kings Notaries, and of suspending or depriving them of their office for some fault or crime by them committed; the doing of justice upon married Clerks, which have their confine, in all causes both civil and criminall; the punishing of concubinage, and adultery both in Laymen and women; the seizing of mens goods, and arresting of their bodies in causes of Ecclesiasticall jurisdiction, and that even of the Lantie. Besides, this Councell in very many Chapters, prohibited all appeals, and will have that which the Bishops do, to stand, without any regard of any appeals to the contrary whatsoever. Also it allowes Ecclesiasticall persons to refuse such summons as shall bee sent out by the Parliaments or other of the Kings Judges. For the further satisfaction of such as will not content themselves with this bare proposall, wee will speake somewhat of every one of these heads, for the

c Conc. Trid.
Sess. 4. c. ult.
d Sess. 24. c. 1. &
e Sess. 24. can. 12
f Sess. 21. c. 4.
g Sess. 21. c. 8.
h Sess. 22. c. 10.
i Sess. 23. c. 6.
k Sess. 24. c. 8.
l Sess. 25. c. 3.
m Sess. 7. c. 5.
o 7.
Sess. 21. c. 3. et 6
Sess. 23. c. 18.
Sess. 25. c. 5.
Sess. 29. c. 15.
n Sess. 25. c. 3.

Libels of what jurisdiction. better clearing of this inroachment of jurisdiction, I mean only so farre as concerns the right of our Realme of *France*.

Francis. Bal-
dwinus in com-
ment. ad leg. de
famofis libellis
p. 13.

4 Beginning then with the first, which is touching defamatorie Libels; our civil lawes give the cognizance and jurisdiction thereof to the Iudges and Magistrates, not to the Ecclesiastiques. Some, may bee, will except such as concerne point of Religion, but this exception is not pertinent; and observe this one reason, which is sufficient to confute; namely, that those lawes of *Constantine the Great*, and *Constantinus*, which restraine the licence of such Libels, were made in a time much like this of ours; to wit, when divers writings were put out concerning point of Religion, against the honour both of one and other. Doctour *Baldwin* hath very judiciously observed it; *It is behoofesfull (saith hee) to remember what manner of times those were of Constantine and Constantius, wherein the contentions about Religion, not much unlike unto ours, gave fire unto the affections of both parties, and which afterwards hatched those unhappie calumnies, and scandalous libels, just as it is at this present.* This he delivers in his Commentarie upon the three lawes of the Emperour *Constantine*, and the two of *Constantius*, made in this case, which wee read at this day in the *Code of Theodosius*.

L. 7. Cod. Theod.
de famofis libel.
l. unica. C. Ju-
stin. eod.

5 Those words of the Emperours *Valentinian*, and *Valens*, are also remarkable, *If any man have any care of his devotion, and the publique safetie, let him professe his name, and with his owne mouth speake what hee intended to prosecute by defamatorie libels.* This may well bee referred to libels in case of religion; nor was it ever meant by those Emperours in any other sense. Now all these forementioned constitutions, with some others of the same *Valentinian*, and *Valens*, *Arcadius*, *Honorius*, and *Theodosius* lay a punishment upon the authours of such libels, and the Publishers of them; committing the cognizance and execution of that punishment unto their Officers and Magistrates, directing those very lawes unto them, to the intent that they might observe them in their judgements.

Vid. totum tit.
C. Theod. de fa-
mofis libellis.

6 An infinite company of the Ordinances of our Kings speake expresselie of defamatorie and scandalous libels, which concerne matter of religion; they prescribe what punishment shall be done upon them, what paines the authors, printers, and publishers shall endure; and in expresse termes assigne this jurisdiction to the Judges Royall. Of this kinde is that of King *Henry the second*, of the eleventh of December 1547, made at *Fountainbleau*, and another of the same Prince made at *Chasteaubriant* the year 1551; that of *Charles the ninth* made at *Manse* the tenth of September 1563; that of the States of *Molins* in the 77 Article; and an infinite companie besides, which stirre up the jurisdiction in this point.

7 I shall content my selfe with setting downe the words of one of them only, namely that of King *Charles the ninth* made at *Manse* the tenth of September 1563, which speaks of defamatorie libels, placards, pasquils, and such like things in matter of Religion; and as for the point of jurisdiction ordaines as followeth; *Commanding all publique Magistrates, Commissaries of the countrie, and other our Officers, whom it may concerne, to have an eye and regard hereunto, charging our Proctours, and Advocates in every place to doe their endeavour, and bestirre themselves herein, all other businesse laid aside, to the finding out, and punishing such faults as they shall finde concerning this particular.* And afterwards, they are commanded to observe the said ordinance punctuallic, and proceed against the breakers hereof by the punishments there assigned, peremptorily, without observing the ordinarie formes of justice.

8 Wee have also some prettie lawes in *Iustinian* about the punishing of Witches and Sorcerers, which are addressed to the Iudges and Magistrates; yea, there is one of them that commands him that shall catch any of them, to put them

them into the Iudges hands. *That forthwith hee bring him out in publique, and present him before the eyes of the Iudges.* The Emperours *Honorius* and *Theodosius* writ to *Cecilian* one of their Magistrates, that hee should banish them, unlesse they would cōsent to see their own books burnt in the presence of the Bishops. Which shews that the Bishops had but little jurisdiction in that regard. *Leo* the Emperour writes also to one of his Officers, that he should punish them with death, as Apostates.

9 The punishing of such as contract clandestine marriages, and those that conspire with them therein, and those that advise or assist them about the consummation thereof belongs also to the Iudges Royall, by the Ordinance of King *Henrie* the second, made at *Paris* in Februarie 1556, in these words; *Let them bee lyable to such punishments as our Iudges shall thinke fit, according as the case shall require, to whom the cognizance hereof shall appertaine, and wherewith wee charge them upon their honours and consciences.* Which Ordinance was renewed at the States of *Blois* since this Councell was holden. A certaine argument of the rejection thereof by the late King.

10 As for causes matrimoniall, those civill Lawes which give the cognizance of them unto Judges and Magistrates, are sufficiently knowne by every bodie. We shall onely speake of the law of *France*, after we have set downe the words of the Councell. *If any man say that matrimoniall causes belong not to Ecclesiasticall Iudges, let him be accursed.* See, here's a Canon without either saddle or bridle, which is able to scare all the Secular Judges in the world, and make them forbear all judgements whatsoever concerning marriages, or any thing that depends upon them, for there is nothing excepted.

11 It is the custome in *France* that when the question is of the rite of the coupling together in marriage, as for instance, *Whether marriage be perfect and consummate by words of the future or of the present*, the cognizance belongs to the Ecclesiasticall Judge; but if it be a question of fact, as *Whether the contract was made by words of the present, or of the future*, then it falls within the jurisdiction of the Civill Judge. So likewise if separation from the bed, or divorce be barely required, and no more, then it is for the Ecclesiasticall Judge to determine; but if the question be of any fact, as if divorce bee required because one of the married parties is a thiefe, then it is for the lay Judge. Further, if the question about marriage be betwixt any other parties than the husband or the wife, as if the father and mother be interested in it, so likewise if the controverſie be about the damages or profits arising from a marriage, about the portion or gift given in consideration of a marriage, about any transaction in a matrimoniall cause, or other consequences or dependents, it belongs no more to the Ecclesiasticall jurisdiction; as hath beene adjudged by divers arrests of our high Courts of Parliament.

12 The right of patronage is indeed a thing annexed to somewhat which is truly spirituall, yet it doth not cease for all that to bee a temporall right in some kinde. This distinction hath ever beene currant in *France*, that the Ecclesiasticall Judge determines of Ecclesiasticall patronage when the question is about the *petitorie*, but for the *possessorie* that is for the Civill Judge. This maxime is most true, that in things spirituall the cognizance of the petitorie belongs to the spirituall Iudge, and of the possessorie to the lay Iudges: Accordingly the Parliaments and other Iudges of this kingdome have determined concerning the possessorie in the matter of tythes, which are as spirituall as patronages can be, concerning which there is an Arrest of *Paris* made 1362 to beſcene in the great collection of them. They have also ever determined of the possessorie of Benefices, concerning which there is an Arrest of the Parliament at *Bordeaux* of the 19. of Iuly 1524 in the same collection. Pope *Martin* the fifth hath so agreed upon the case with King *Charles* the seventh con-

Causes matrimoniall, divorce &c. of what jurisdiction.

Coſt. Iuſtin. de malef. & mathemat. per tot. L. quicunque C. eodem L. mathematico. C. de Episc. audient. Novell. Leonis 65.

Session. 24. Can. 12.

Papon au recueil d'Arrests tit. de jurid. eccles. Art. 2. & 3.

Papon au mesme lieu art. 3. Papon ibid. art. 3. & 4. Imbert in enchir. in verbo matrimonii controversia. Papon au titre de la juridict. temporelle art. 3. Droit de patronat.

Gloss in ca. l. seras. Extra. de juram. calum. c. quanto. Extra. de judic.

Papon tit. de jurid. eccles. Art. 1. Papon au titre de la juridict. temporelle art. 22.

Lay patronage,
of what jurisdic-
tion.

Guido Pape
decis. 1. et 352.

Papon titre de
la jurisdiction
temporelle art. 1
Et titre des
dismes art. 9.

Chap. 23. desti-
beriez de l'Eg-
lise Gallicane.

Articles 1. 2. 3.
4. de l'ordonn.
de l'an 1539.
Papon tit. de
choses sacrees
Art. 2.
Papon ibid.
Art. 3.

Ludovicus de
Ranberg in
constitutionem
Francisc. La-
tam anno 1539.
Art. 1.
Idem Lud.
Ranberg.

cerning the possessorie of Churches, Tythes, Benefices, and all other spirituall things, in a certaine Bull of his, as the learned Counsellor of *Grenoble* witnesseth in his decisions; and this because the possessorie, which is the thing controverted, is a temporall thing.

13 As for lay patronages they never were of Ecclesiasticall jurisdiction in *France*, neither for the Possessorie nor the Petitorie. And this is so farre true, that whereas the spirituall Iudge may have cognizance of tythes as concerning the petitorie, yet he may not so of those which are appropriated, that is, holden by a lay hand in fee of the Church, and which are by that meanes converted into a right of patronage, as was judged by an Arrest of the Great dayes of *Poitiers* the 26 of September 1531, by another of *Paris* at All-Hallowes 1589. It is said in an ordinance made by *Philip* the third, anno 1274, that if one lay man sell unto another lay man the tythes which he hath bought of a Clerk, and there arise a suit about the price, the cognizance thereof doth not belong to the Ecclesiasticall Iudge.

14 The forme also which is prescribed by this Councell for triall of the right of patronage, is no way receiveable in this Kingdome, which ought herein to follow the common law, especially considering that the rigour concerning this point is so severe and exact, that the most part of the lords & owners of the said rights of patronage should bee in danger to loose them, if they were reduced to that necessity of triall. Now it is one of the priviledges of our *Gallicane Church*, That the Pope cannot by any provisos about Benefices, or otherwise, derogate from, or prejudice lay foundations, and the rights of the lay patrons of this Realme.

15 It is also an abuse to give the Bishops power to compell their parishioners to maintaine their Priests, considering that the Bishops in *France* have no jurisdiction over lay men in a temporall thing, such as is food, but onely in case of the Sacraments, and other spirituall things, as is said expressly in an ordinance of king *Francis*, made 1539, conformably to the former distinction: by an Arrest of the Court of Parliament at *Paris* of the 11 of July 1531, a certaine Priest was judged capable of suing before a lay Iudge against a lay man for the wages of his calling, in as much as he had said Masse for him. And by another Arrest of the 17 of Aprill 1545 upon an Appeale as from abuse, put in by a lay man against the proceedings against him before an Officiall, at the suit of a Priest, who demanded payment for divers Masses celebrated for the said lay man and his predecessors, it was judged that a lay Iudge is onely competent to condemn a lay man in such cases.

16 By another Arrest of the tenth of August 1551 the assignation granted to certaine villagers by the Bishop of *Angers* his Officiall, was declared to bee a nullitie, in as much as it was done by an incompetent Iudge, and that because it was about the payment of a summe of eight pence, which the said assignes were bound to pay to the Canons of *Angers* every yeare at Easter, to bee bestowed in wine which was given unto them after the celebration of the blessed Sacrament. By another Arrest of the 21 of Aprill 1532 it was declared that the right of sepulture is not triable before an Ecclesiasticall Iudge. There is greater reason that a lay Iudge should determine in case of maintenance demanded by a Priest against his Parishioners. For in such a case the question is not about a spirituall thing, but a temporall annexed unto a spirituall, which in matter of jurisdiction must ever be separated.

17 As for the visitation of benefices, the Parliaments of this Realme have reserved that authoritie unto themselves, of ordering of them divers times, and causing them to be judged. And to this purpose there is an Arrest of *Paris* of the 16 of December 1521, whereby it is determin'd that the Priorie of Saint *Maurice* at Saint *Liz* shall be visited and repaired; and besides, that during the

suit

suit of the Priorie, the administration of the sacred things shall bee committed to two Clerks, and of the prophane to two lay men. The Monks of the Abby of *Orbais* in *Champaine* complaining of the Abbat in trust, that monastery was visited by Arrest of the same Parliament, given out the year 1568. The power of visiting belongs indeed to Bishops, but not so as that they may use any coercion to cause the reparations of the buildings to bee made. They may call in unto them the lay officers of the place to provide altogether for the reparation and maintenance of Parish Churches and their buildings. But the putting of this in execution belongs afterwards to the lay Iudges; who to that end must compell the Churchwardens and parishioners to contribute for the necessary charges by all due and reasonable wayes, yea and the Curats themselves, if they bee seized of temporals to beare such a part and share of the said reparations and charges, as shall be set downe by the said Prelates. This is almost word for word the same with what was decreed in this point by the 25 article of the ordinance of *Orleans*. So then the Bishops may arbitrate these reparations, calling the lay Iudges in unto them, but they have no jurisdiction to compell any man to make them; that belongs to the Civill Iudges, exclusively to the Ecclesiasticall in *France*.

Of visitation
and reparation
of Churches.

18 It is many years agoe since the Parliament of *Paris* pronounced, that it was good law which was done by a bailiffe of *Vermandois*, who going upon a Commission for the King decreed that he would have the cognizance of assessing of reparations, which were to be done in certaine houses which belonged to the Church of *Landune*. A certaine Bishop of *Noyon* was also dismit of his exception against the jurisdiction of the Court, in an action entred against him in Parliament, about certaine reparations of the tenements belonging to another Bishopricque which hee had formerly had. In the register of the ancient Decrees of the Parliament of *Paris*, Folio 114, there is one of King *Charles* the sixth, bearing date the sixt of October, 1385: the words whereof are these; *That every of the Iudges Royall within his Province, perceiving the ruine of Church livings by default of allowance of meanes to such as do divine service in that place, by the burthen of debts, or the fall of houses, proceeding from the negligence or ill usage of the inhabitants, that they seize the fruits of them into our hands. By a triple division whereof they shall provide for the three defaults above mentioned, deputing certaine Commissaries to that end, by the counsell and advise of the Abbats, Religions, or Ministers of the places at indifferent charges, who shall give accounts of the remainder, and restore it unto those to whom it shall appertaine.*

Johan. Gallus
9. 587.

Johan. Gallus
9. 225.

19 The necessitie of repairing and re-edifying of Churches during the time of these troubles, being referr'd by our Kings unto the Clergy-men, the Ordinances made in that behalfe, are directed to the Courts of Parliament, the bailiffes, and stewards; who are prohibited by virtue thereof to compell them to make the said reparations, as appears by the Ordinances of *Charles* the ninth, dated the 10 of September 1568. The eighteenth of September 1571. The third of November 1572. It hath bene also judged by divers Arrests of the Parliaments of this land, which are to be seene in the great collection of them, that the question touching the reparations of benefices belongs to the Lay Judge, and not to the Ecclesiasticall.

20 As for the sequestration of the fruits which the Councell gives unto Bishops, it belongs no more unto them than the other, considering that they cannot put it in execution, nor have any right of seisure in the goods moveable, or immoveable. And herein that Decree of *Philip* the third, dated 1374, is worth our observation, who prohibites a Bishop the granting the seisure of the moveable goods of a certaine Clerke condemn'd in a personall action, considering that those goods were not within his episcopall jurisdiction.

Papon tit. des
choies sacrees,
art. 12, 14. &
15.
Tit. de la jurif-
dict. temp. art.
19. & 21.

Royall Notaries, and married simple shavelings, of what jurisdiction.

21 But there is nothing more exorbitant than the jurisdiction which is by this Councell given unto Bishops over the Notaries Royall. It is a certaine rule, that Ecclesiasticall persons have no jurisdiction within this Realme over Lay men, save in one case; to wit, when the question is concerning the sacraments and spirituall things. This is so farre true, that an Ecclesiasticall Iudge cannot so much as deale in a fault committed by his Lay gaoler for suffering a prisoner to make an escape, or in any other offence committed in the gaole; as it was judged by an Arrest given in the Great dayes of *Poitiers* the 18 of September 1531; nor in any faults committed by the Proctour of his office if hee bee a Lay man, although he have trespassed in the exercise thereof, according to an Arrest of *Paris* of the 11 of April 1532. Now the Royall Notaries are so farre from being, nay it is so impossible that they should be under the Ecclesiasticall jurisdiction, that on the contrarie the Iudges Royall have authoritie over the Apostolicall Notaries. This appears by an Edict of King *Henrie* the second, made at *Fountainbleau* in September 1547, about the calling in of the Apostolicall Notaries, wherein it is said, *That by the bailiffes, stewards and Presidiall Iudges, every one in his owne power and jurisdiction a sufficient number of the said Notaries shall bee adjudg'd and limited.* Which calling being so made by them and every of them, his will is *That they make choise of the most able and sufficient within their jurisdiction to the number by them determined.* And for the Notaries Royall, it were a superfluous thing to alledge the Decrees which give the Kings Iudges authoritie to punish them in case of any offence or crime by them committed.

22 The jurisdiction which is given unto Bishops over such married people as have only the single tonsure, is not lesse extraordinarie. A married shaveling hath as good as no priviledge at all in *France*, but is reckoned in the ranke of Lay men, because of the great abuses which have beene heretofore committed in this Kingdome. For, to enlarge the Ecclesiasticall jurisdiction; the time was when Prelates bestowed that tonsure upon all sorts of people, even upon some young infants, some servants, some bastards, and some ignorant and illiterate married men; yea, and which is more, if the Kings Officers prosecuted any offender, if he but said hee was shav'd, though indeed hee were not, the Ecclesiasticall Iudge would straightwaies hooke unto himself the cognizance of the cause by censures and excommunications. Which was a meanes of offenders escaping with impunitie, because that they might get off by their purse from the Ecclesiasticall Iudges, upon which occasion all malefactours inclined rather to this jurisdiction: as it is prov'd at large in the Articles which were presented to King *Philip*, by Mr. *Peter de Cugneres*, against the Clergy, of *France*.

Cap. ex parte de Cleric. Conjugat.

23 A certaine Queen of *England* complain'd to Pope *Honorius* the third of that name, that many married men made use of the tonsure, to cheat her of the right which belonged unto her, as it is recorded in the Decretals. By an Ordinance of King *Charles* the ninth, in the yeare 1563, it was decreed, that none should bee admitted to sue, by virtue of the priviledge of his Clergy, to bee sent backe to the Ecclesiasticall Iudge in any case whatsoever, whether civill or criminall, unless hee were a subdeacon at the least: which is as much as to exclude all simple shavelings, whether they be married or no, who notwithstanding shall bee admitted by the Councell of *Trent*, yea in such sort, that priviledged cases are not excepted in criminall matters, nor personall actions depending upon the realitie, and other such like civill matters; howbeit that such exceptions have ever beene in force within this Kingdome, and that even in all sorts of Ecclesiasticall persons.

24 And see here another great prejudice done unto us by this Councell, which we must either take a course to remedie, or else all the regall jurisdiction

on of our Ecclesiasticall persons will come to nothing, and wee must talke no more of those distinctions which were wont to bee used in the pällace, time out of minde in this regard. For if priviledged cases, and civill actions which belong to the jurisdiction Royall, bee not excepted in the person of married Clerks, then much more must wee admit of this new law in behalfe of other Clergy men, whose priviledge is farre greater.

Adulterie, concubinage, seizure of goods, of what cognizance.

25 As for Civill actions the Councell confirms the Decree of *Boniface* the eighth, whereby Secular Iudges cannot condemne married Clerks, neither in personall causes, nor pecuniary. Which words are of a very large extent, so great that we may comprehend under them, not only actions which are purely personall, but such also as depend upon reality, all actions of contract, reall, and possessory. For the word *Pecuniariter* being divided from *Personaliter*, and placed before it in the said Decree, will alwayes be understood generally, and will comprehend within its latitude, by meanes of that interpretation they will put upon it, whatsoever concernes our patrimonie, and all the actions which we can have, either for the recoverie or preservation thereof. Which they will confirme even by the authoritie of our owne law.

In Cap. uni. de Clericis Con. jug. in 6.

26 As for adulteries, the usurpation is very notorious: it is directly against the Civill lawes, whereby the punishing of this crime belongs to the Magistrates, not only by those of the Pagans, but even by those also of the Christian Emperours. The Ecclesiasticall Iudges in *France* never had the cognizance of such crimes over Lay men, but this jurisdiction was left in the possession of the Secular Iudges: Yea, which is more, we read two Arrests of *Bourdeaux*, one against a Bishop, another against an Abbat, whereby they were condemn'd unto certaine punishments for the crime of manifest adulterie. There are an infinite more Arrests of the Courts of Parliament of this Kingdome, which testify that they are in possession of the cognizance of this crime.

L. *quoniam* & seq. C. ad legem Juliam de adult.

papon. tit. de adult.

27 *Leo* the tenth acknowledging that this right belongeth to the officers Royall of this Realme, where hee decrees concerning the punishment of Clerks that keepe Concubines, when he comes to speake of Lay men, he doth no more but exhort them to abstaine from adultery and concubinage, as things forbidden by God, without passing any further. The Ecclesiasticall Iudges have sometimes attempted to usurpe this jurisdiction over the Laitie in case of adulterie; but the complaint which was made of it by Mr. *Peter de Cugneres* on the behalfe of the Iudges Royall, which wee may read at this day extant, put an end to that trouble. And alwaies whensoever the Clergie attempted to meddle in such matters, they have beene prohibited by the Parliaments upon appeals, as from abuse which have beene put in against their decrees.

Concord inter Leonem 10. & Francisc. 1. tit. de public. Concubin.

In libro composito super facto pralatorum.

28 So by an Arrest of *Paris*, of the 28 of June 1534. It was determined: that a married Lay man cannot be cited before an Ecclesiasticall Iudge, for deflowering a Virgin. There are two Arrests of that same Court, called *The Arrests of married inbreeders*, which are very remarkable; one dated the 10 of July 1366, the other the 5 of March 1388, whereby Bishops and Archdeacons are prohibited to cause Lay men to bee cited any more before their officials, in case of adultery or fornication with other women than their owne wives. There is also an Ordinance of King *Saint Lewis* the year 1254, for the banishment of common whores out of all cities and townes, which hee will have to be done by his Iudges and Officers, and their goods to bee seized by them.

Gil. le Maistre au traitté des appellat. com. d'ab chap. 6.

In stylo Cur. Parl. part. 3. tit. 29.

29 The like case is about seizure of goods, it being a thing certain in *France*, that such executions are prohibited and forbidden to Ecclesiasticall Iudges by an Ordinance of King *Philip* the third, made in the year 1274; which forbids any Bishop to cause any such execution to bee made of the immoveable goods of any Clerke condemn'd in a personall action; because the immoveable

Parliaments
deprived of
appeals.

Gilles le Mai-
stre au traitté
des Appella-
tions comme
d'abus. chap. 5.

Gilles le Mai-
stre ibid.

Seff. 7 cap. 5.
6 7.

able goods are out of his Episcopall jurisdiction. According hereunto a certaine Bishop of *Paris* was declared not to be admitted into the Court in a pretendure which he made of the power of arresting certaine moneyes belonging to a Clerke inhabiting in certaine lands subject to the jurisdiction Royall, and he was cast for attempting it, by an Arrest of *Paris* the second of April 1334. And the reason hereof is, that it is holden for a ruled case in our law, that Bishops and other Ecclesiasticall Iudges have no territory or other right of temporall subjection, as is proved by Mr. *Gilles le Maistre* chiefe President of *Paris*, by divers authorities. And upon the same reason the cognizance of real actions, of debt, and possessory, is forbidden them. When there is any necessity of doing such or such like executions, they must implore the aid of the secular arme, which cannot be denyed them. The Iudges Royall are enjoyn'd by the 24 Article of the Ordinance of *Melune* made 1580, to aid the Ecclesiasticall Iudges in the execution of their sentences when they implore the secular arme.

30 Much lesse may they proceed by way of imprisonments or otherwise to the execution of their sentences. Such Acts are left to the Secular power, which they ought to implore. But if in any criminall case they decree the Arrest of a mans bodie against those of their jurisdiction, they cannot proceed to cause him to be attacht, if he be out of their Court, but must have recourse to the secular arme. And to this purpose it was determin'd by an Arrest of *Paris* of the tenth of May 1535, That it was ill determin'd and absurdly proceeded by the Deane and Chapter of *Mans*, who judged, upon an accusation commenced against a Canon of the said Church, that he should be kept prisoner in his Cloister.

31 But one of the greatest wounds which the Kings authoritie and the Courts of Parliament can receive, is, that the power of appealing is taken away even almost in all actions. For as for the Popes Bulls and Decrees wee have already prov'd that such appeales cannot bee put in hereafter, in as much as he is made to be above a Councell, above all Princes and Lords that have any soveraigne dominion, in as much as the confirmation of all the Canons and Decrees of the Councell of *Trent* was left unto him; the reformation also of all that concernes Ecclesiasticall manners and discipline, and his authoritie in all things reserv'd. As for the Bishops and other Prelates of this Kingdome, in all the before-mentioned cases it is said expressly, that no appeale can be had from their sentences. It is true that the Popes authoritie is reserv'd above all, so as not onely the Kings inferiour Iudges are depriv'd of their ordinary jurisdiction, but the Parliaments also of Appeals unto them as from abuse, which have alwayes beene put in from the sentences of the Bishops: yea even from the Canons and Decrees of the Provinciall Councils of *France*, and the execution of the Popes Bulls and Decrees.

32 But there is yet more, namely, that appeales from abuse made unto the Parliaments, in divers other cases is taken away: as where it is decreed that no appeale shall bee made from such sentence of the Ordinaries, whereby they shall depate a Vicar with an assignement of certaine portion of maintenance in any Cure or Benefice formerly without Cure. Wherein there is a double grievance: First, that the Iudges royall, as Bailiffes, Stewards, and such like, are deprived of that seizure which they are permitted otherwise to make of the revenewes of livings *sine curâ*, both by the Ordinance of *Charles* the 6, Anno 1385, and by that of the States of *Orleans* holden under *Charles* the 9, Anno 1560, in the eight and twentieth first Articles; and after that by the Edict of *Melune* made by *Henry* the third in February 1580, Article the fifth, upon occasion of the complaints of the Clergie of *France*, and by another of the same Prince the tenth of September 1588. The other that our Parliaments are depriv'd

priv'd of Appeales as from abuse, which have alwaies beene used in this kingdome.

33 Power is also given unto the Bishops to erect Colledges for the instruction of youth, with the advice of two of the most ancient Prebends, and to endow them with the advice of foure deputies, two of the Chapter, and two of the Clergie: as also to order the revenewes of buildings, and of hospitals, tithes appropriated and belonging to lay men, so as there can bee no appeale from what they shall determine in this respect. Wherein there are divers good grounds of complaint. First, that the Councell undertakes to erect Colledges in *France* for the instruction of youth; for that derogates from the Kings authoritie, who hath provided for this point by the ninth Article of the Ordinance of *Orleans*. Secondly, that the Councell gives the power of this erection to the Clergie, without employing the Maiors, Sheriffes, Councillors, Capitons, or other Civill Magistrates, which the same Ordinance doth require: the words whereof are these. *Besides the said Divinity Prebend, another Prebend or the revenewes thereof shall bee assign'd for the maintenance of a Schoolemaster, who shall be bound in the meane time to teach all the youth of the City gratis, without any wages. Which Schoolemaster shall be chosen by the Archbishop or Bishop of the place, calling in the Canons of the Church, together with the Maiors, Sheriffes, Councillors, or Capitons of the City, and to bee put out by the said Archbishop or Bishops, with the advice of them aforesaid.* And the execution of the aforesaid Ordinance is committed to the Officers Royall by another Ordinance of the same Prince given the 22 of November 1563. And the reason why the Ecclesiastickes are here joyned with the lay in the election of a Schoolmaster, is, because his maintenance is taken out of the revenewes of the Church. For otherwise there were no necessitie why they should come in.

34 In the third place, it disposeth of other mens goods too freely (as of building money) imploying it to another use, against the will of the founders. King *Henry* the third without any regard had to the determination of that Councell, by his Edict of *Melune*, Anno 1580 Article the eighth, doth expressly forbid both his Iudges and all others to divert or apply the goods and revenewes which have beene given for the building of Churches and Chapels, to any other use than that to which it was ordain'd. Which sheweth withall the little regard the late King had of this Councell.

35 It disposeth likewise of the revenewes of Hospitals contrary to the intention of the Founders, and to the prejudice of divers Ordinances of our kings which have beene made in this behalfe, whereby all iurisdiction and disposall of the goods of hospitals is intirely given to the Iudges Royall: who are commanded to take the accounts of the administration of them, to proceed to the correction and reformation of such abuses and disorders as are committed in them, to assigne an allowance to their tutelar governours for the charge of divine Service which they are bound to doe, to give the residue intirely unto the poore, according to the institution of them. This is the summe of King *Francis* the first his Edict given at *St. Germain* in *Laye* the 15 of January 1545, published at the Parliament of *Paris* the 4 of February the same yeare, confirmed afterwards by another of the same Prince made at *Rocheport* the 26 of February 1546, and another given at *Melune* the 20 of June the same yeare; another of King *Henry* the second the 12 of February 1553. of *Charles* the ninth 1561. of the Ordinance of *Moulins* of the same Prince, Article 73. And besides all these by the Edict of *Blois* by the late King *Henry*, Article 65. All which Edicts set downe other formes for the administration, preservation, and distribution of the goods of the said hospitals. Yet so that they must alwayes bee imployed to the reliefe and sustentation of poore people, the reparation of buildings, and such necessities.

Councell of
Trent deales
unjustly about
Schooles and
Hospitals.

Voyez le recueil
des Ordonn. de
Fontenay. Tom.
4. tit. 10. des
pragmatiq.
Sant. chap. 7.

Infeodated
tithes of what
jurisdiction.

a In cap. literis
extra de juram.
calum.

b In tra8. de
vita spir. anime
et in prima
lectione supra
Marc.

c Ordon. de Hen.
3. faite à Me-
lun en l'année
1580. art. 29.

d Ordon. du roy
Charles 9 faite
au chasteau de
Bologne les
Paris le 24.
Juillet 1568.

Ordon. de Blois
art. 49.

e C'est la mesme
du chasteau de
Bologne.

Molinet in
consuetud. Pa-
ris. §. 46. ccl. 25

Cap. prohibe-
mus. extra de
decimis.

36 The same Councell disposeth likewise of infeodated tithes, (that is, such as have by just title beene appropriated to lay men, so as now they retain nothing of spirituall) giving the Bishops Sovereigne power to apply one part of them to the maintenance of Colledges, and so as there shall bee no appeale from them. Which it ought not to doe, because it hath no power over the goods and lands of lay men, no nor over the temporals of Clergy men in the Realme of France. It is here considerable, that although tithes bee reckoned amongst spirituall things by *Eugenius* the third, yet that's improperly spoken, and they are not so truly spirituall as set aside for the use of the spirituall Ministers of the Church, as Mr. *John Gerson* teacheth.

37 And this is also the reason that by the Edicts of our Kings the most of the controversies arising about tithes are of secular jurisdiction: as when the question is of the possessorie: when the quotitie of tithes is controverted: or the removeall of corn or other tithable fruits of the earth out of their place before the tith be payed; and such like cases: So that there is nothing left for the Ecclesiasticall jurisdiction save onely the question of right, namely, Whether the tith be due. Amongst other Edicts to this purpose, there is one of *Charles* the ninth, whose words are remarkable. *All suits concerning tithes and the right of them wee have for the present remitted to the ordinary Judges of every Province, to whom the cognizance thereof shall appertaine, and over which we have given them full jurisdiction.* And another of the same Prince made at Paris the 18 of April 1571, in the 16 Article of which there is this clause. *Wee grant unto our Courts of Parliament the cognizance of such suits as shall arise hereabout, every one within their owne circuit.*

38 If these Ecclesiasticall tithes are of secular jurisdiction, because they have in them but a little of the spirituall, much more ought they to be so which are appropriated. So it is reported as a ruled case in law, *That tithes holden in fee belong to the jurisdiction of the secular Judge, exclusively to the Ecclesiasticall.* So then the Ecclesiasticall Judges cannot intermeddle with them, nor determine of them without intrenching upon the other jurisdiction: much lesse can the Clergy dispose and decree concerning them, whether assembled in Councell or otherwise, to the prejudice and damage of the lay men that are the owners and possessors of them. And therefore in this Kingdome wee ought not to have any regard to that prohibition made by the Councell of *Lateran*, whereby lay men that hold tithes in fee are forbidden to make conveyance of them to other lay men, for that is to make lawes about particular mens estates, and thrust the sickle into another mans harvest: Now the attempt which is made by the Councell of *Trent*, the thing now in question, is farre greater: for that of *Lateran* doth onely prohibit the alienation of them to lay men, whereas the Councell of *Trent* gives Bishops power to deprive a lay man of his goods and estate, of a thing which truly belongs unto him, and which hath nothing spirituall in it: to wit, to take a part of his tithes, that is a part of his inheritance, from him, and convert it to the maintenance of a Schoole. And which is worse there must bee no appeale made from that order and decree which the Bishop shall make, what abuse so ever there be in it. So that both the owners and possessors of those tithes shall be deprived of their goods, and the Judges of their jurisdiction, and that to the prejudice of those Edicts already alledged.

39 And after all this yet this Councell will have the accounts of Colledges so created to be heard and examined yearly by the Bishop, with the two deputies of the Chapter, and the other two of the Clergy. Which is derogatorie to the Edicts alledged herebefore, whereby the making of such accounts of building-money, and Hospitals, is laid upon the Kings Judges, inasmuch as there shall no account bee made to them hereafter, of that part of the revenues which shall bee taken out of such buildings and Hospitals, to bee im-
ployed

ployed to the use of those Colledges and Seminaries, but only to the Bishop. Wherein there is a very great accumulation of grievances: for they to whom it formerly belonged to make those accounts, ought not to bee deprived of it by meanes of such application of the revenues to another use. And suppose that might be admitted, yet it were reasonable that those accounts were still made before the Kings Officers; at least that the Major and Sherifes of the towne where such houses are, and such like persons were called: considering that the meanes of Colledges and Schooles is no more spirituall than that of buildings, Hospitals and Spittles. Especially considering that building-money, after the buildings are finished, ought to be converted to the reparation of Churches, and purchasing of ornaments for them, and other works of charity: and yet there is never any alteration for that of the parties which are to make the accounts, but it is alwaies left to the Officers Royall; nor is the Clergie suffered to intermeddle in the accounts of building-money; and in case they should attempt, there might be put in an appeal as from abuse; as it was judged by an Arrest in June 1550. And as for the accounts of Hospitals, they are to bee made also before the Kings Officers, notwithstanding that by the will of the Founder, part of the revenues of those Hospitals be designed and appointed for divine service, according to an Edict of King Francis ann. 1545. And (which must bee taken notice of) in case the Bishops and other of the Clergie have the right of overseeing the administration of those Hospitals, yet they retain unto themselves the hearing of the accounts aswell as Lay Patrons doe. Howsoever in such sort that the foure, at the least, of the most eminent inhabitants of the place or Parish must bee called unto them; as it is ordered by the sixt article of the Ordinance of Hospitals, made 1561. From which the tenth article of that of Melun 1580 doth no way derogate, which must be expounded by the former, in that where it is said, *That the Prelats and Clergie shall be maintained in their right which they have of looking to the administration of Hospitals and Spittles, and taking the accounts of their revenues:* where that must be repeated which is in the precedent Edict, (*The most eminent inhabitants, &c. being called therunto;*) forasmuch as this latter aimes at the preserving and confirming the right of the Clergie, not at the excluding of the inhabitants of the place or Parish from the hearing of the accounts.

40 Lastly, the remedy of appeal is not admitted to take place against such decrees, as the Bishops shall make for the repairing of Cloysters and Monasteries; but they must be forthwith put in execution without all appeal; yea and that in such sort that the Secular Magistrates are commanded upon paine of excommunication to assist them. In which there are many grievances. First, in that the Judges Royall, as also the Bailiffs and Stewards are deprived of that cognizance which belongs unto them before all others in case of such reparations, as we have made it plaine already. Secondly, in that the Parliaments are deprived of those appeals which would bee made unto them from the inferiour Judges. Thirdly, in that no appeal can bee made unto them as from abuse, from the sentence of Bishops. And fourthly, in that the Kings Officers are made lyable to excommunication, contrary to that priviledge which hath beene granted unto them, and which they have ever enjoyed: whereof wee shall speake in another place. Now if this Councel take place, we must make account that appeals as from abuse, are utterly abolished, as wee have said already: which is a thing that concernes France not a litle, inasmuch as it is one of the principall weapons, wherewith our Predecessours have fought against the usurpations of the Popes and other Ecclesiastiques.

Administration
and accounts
of Hospitals
and Spittles &c.
of what jurif-
diction.

Edict de Melun
de l'an 1580.
art. 9.

Edict de Cre-
mien art. 9.

Edict du mois
de Juin. de
l'an 1559.

Edict de Juillet
de l'an 1578.

Ordonnu 17.
May 1582.

CHAP. IV.

Of Exemptions.

Illeffects of
exemptions.

Cap. 2. Sess. 24.
In alia Can. 2.
Sess. 8.

Gail. Durant.
Tit. 5. prim.
part. tradit. de
modo celebrandi
Conc. General.

Bernard. lib. 2.
de considerat. ad
Eugenium.

Petrus de Alli-
aco ca. 2. de re-
form Eccles.

Johan. de Paris.
in tractat. de
potestat. Reg.
& Pap. c. 19.

Gail. Durant.
cod. loc.



Neither meanes which the Councell useth to hooke in to the Pope the jurisdiction over other men, are the Exemptions granted to Churches, Chapters, Corpora, Colledges, Abbeyes, and Monasteries; to the prejudice of their lawfull Prelates and Ordinaries, the Bishops and Metropolitans. Our Trent Fathers knew wel enough and confessed that such exemptions are a cause of much evill: for say they, *They give occasion to the persons exempted to live more dissolutely, and more at their libertie.* This is not all, for wee must adde, *That they take away the reverence and obedience which the exempted owe unto their Prelates and Ordinaries; and make them thinke themselves as good men as the Bishops, and other their superiours: That the correction and punishing of faults and excesses, is hereby hindered and brought to nothing: That they are prejudiciall to the whole Church Catholique, inasmuch as the exempted cannot bee judged but by the Pope, and bee daunted doe it by reason of his remotenesse from them: That they rob men of the meanes of doing many good works in religion: That they are the cause of many scandals: That those to whom they are granted, abuse their priviledges: That they draw after them the ruine of Monasteries, being rather a burthen than an honour or profit to them.* All these reasons were alleadged by William Durant Bishop of Mende in Germanland in the time of Clement the first, to perswade the Generall Councell of Vienna to abolish such exemptions. Let us heare what complaints have been made against them at severall times.

1. Saint Bernard spoke very freely of them to Eugenius the third, in those books which hee dedicated unto him. *Abbats (saith he) are exempted from the jurisdiction of their Bishops, Bishops from their Archbishops, Archbishops from their Patriarchs or Primates. Does this manner of dealing seeme good to you? It were strange if it could bee excused, or if there were any need of it. In so doing you shew that you have plenitude of power, but perhaps not of justice.* He speaks yet more of it, but this is sufficient.

2. Cardinall de Alliaco makes a complaint of them likewise, and is of opinion that a course should be taken with them, adding, *That many devout zealous men in the Church have a long time complained of them: as Saint Bernard in a booke by him directed to Pope Eugenius, and others. John of Paris, a devine of the Order of Predicants surgeth the same Saint Bernard. It is also to bee considered (saith he) that Saint Bernard reproves the Pope for troubling the state of the Church, by exempting Abbats, and others subject to Bishops, submitting them to himselfe immediately.*

3. The same Durant maintaines, *That the Pope hath no power to grant such exemptions, considering that they overthrow the generall order of the Catholique Church which proceeds from God, the Apostles, the holy fathers, and generall Councils; and which was approved and confirmed by Popes: that by this order all the Monasteries, religious places, Abbats, Abbesses, Monkes, and Nunnas, and all other religious, and Ecclesiasticall persons, are immediately subject to the government*

government and guidance of Bishops within their Cities and Dioceses, as unto their superiours, the Apostles successors, and such as have power and authority over them. Which maxime he proves by a great number of authorities taken out of ancient Fathers, Councils, and the Canon law: part whereof we have set downe in the margin: From whence, and upon divers other reasons, he concludes, that the Pope ought not for the future to grant any such exemptions, and that those which are granted already ought to bee called in.

Exemptions
anciently com-
plained of.

Can. ult. &
ibi glos. dist. 89
Can. ad hoc 16.
q. 1. can. li.
cer. dist. 45.

can. omnes Basilica. 16. q. 7. can. si quis Abbas. can. cognovimus. can. in nullo. can. monasteria. can. visitandi.
can. non semel 18. q. 2. 10. q. 1. per totam can. qui vere 16. q. 1. & can. sacre ead. caus. q. 2. can. Eliaerimus.
& can. servitium 18. q. 2. can. in venditionib. 17. q. 4. can. Abbatib. 12. q. 2. cap. de synodoch. ext. de religio.
domib. cap. per ruas. cap. omnis cap. quod. super his. de maior. & oled.

5 *Marsilius of Padua* makes a grievous complaint hereof, setting out the injustice of them to the life: *The Pope* (saith he) *absolveth all the Prelates and superiour orders from the power, care, and correction of their superiours: as Archbishops from the jurisdiction of their Patriarchs, Bishops from the Archbishops, Chapters or Colledges of Clergy men from their Bishops, as also Abbats and Priours of Monks, and now of late (I wish it were without a great deal of mischief) the Religions called of the Order of Poverty; putting them all, by a kind of subversion of all order, under his immediate care and correction, without any evident necessity, but rather upon a notorious greedinesse of increasing suits: beating his braines to make the fees runne to him wards, to spoile the Prelates, and inslave them unto him so much the more. No man is ignorant of the insolence which proceeds from hence. For these exempted persons having not their superiours at hand grow contumacious, disobedient and irreverent towards those to whom they ought of right to bee subject, taking from hence matter and occasion of offending more freely both against them and others.*

Marsilius Pa-
tavinus in def.
Pac. part. 2.
cap. 24.

6 *Nicholas de Clemangis* toucheth also upon this abuse; for speaking of Canons, he saith, *To the end that they may freely and with impunitie commit all kinde of wickednesse which a soule is capable of; they are exempted from all the correction and discipline of their Prelates, by paying a great ransom. He makes a particular enumeration of their vices and crimes, and afterwards addes, Having committed all these frauds and rapines, there is no body to punish them; for the poore can have no access to the Pope, who is the sole Judge which many of them brag to have.*

Nicol. de Clem.
in libello de
ruin. et reparat.
Ecclesie. lib. de
corruptio Ecclesie.
star. cap. 1.

7 *Mr. John Gerson* in a certaine booke of his where hee treats of the reformation of the Church, *Consider* (saith he) *whether the too large exemption and priviledge of some men bee profitable or no, and whether the avoidance of the correction of the Ordinaries granted unto them be commodious. The Emperour had also given his Ambassadors in charge to require at the Councell of Trent the reduction of Monasteries under the jurisdiction of the Bishops of the Dioceses where they stand. The King of France his Ambassadors stood to their demand, as wee have said elsewhere.*

John Gerson
1. part. in decla-
rat. defectuum
viri. Ecclesie.
num. 70.

8 Let us now see the goodly reformation herein made by the Council: For that piece which we have viewed already, promiseth some goodnesse for the future. First, there is no forbiddance, nor prohibition of such exemptions, nor so much as any restrictions, or limitations, saving onely forasmuch as concerns Proto-notaries, Acolyths, Counts Palatines, Kings Chaplaines, and other such like dignities, which challenge a kind of exemption. Which (saith our Councell) ought not to bee granted, save upon just, important, and almost necessarie causes. As for other exempted persons, let the Pope make as many as hee will, no body sayes a word to him. But they have done a great courtesie when they declare that nothing is taken from the Ordinaries by such priviledges of exemption, inasmuch (say they) as they shall alwaies have the

Cap. 2. Sess. 24.
in aliis can. 2.
Sess. 8.

Jurisdiction over exempted persons, unjustly usurped by the Pope.

seff. 6. cap. 3.

Petrus Ribade-
neira lib. 3. de
vita Ignatii
cap. 21.

cognizance and jurisdiction over exempted persons, as Delegates for the See Apostolique. According to them there is no difference betwixt having a proper jurisdiction and of a mans owne head, and having it by commission.

9 The interest of our France concerning this point is very evident in two things: first, in the grant of exemption, *In as much as from all antiquity they were not granted, save onely by our Kings and Princes, or by the Popes at their instance, and upon very weighty and important considerations.* Next, *For as much as no Monastery, Church, Colledge, or other Ecclesiasticall body can be exempted from their Ordinary, so as to say they depend immediately upon the holy See, without the Kings leave and permission.* These are the very words of one Article, *Of the liberties of the Gallicane Church.* They derogate from this right by the second Chapter of the twentie fourth Session, of which we have spoke already; and the third Chapter of the sixt Session, which gives Prelates power to visit, punish, and correct all exempted Clerkes Secular or Regular sojourning out of the Monasterie, as Delegates for the See Apostolique.

10 And to shew that this abuse of the Popes doth still remaine, wee will give one instance as good as all. Every man knowes how the Jesuites encrease both in number of men, and Colledges, and revenues. It is a wonderfull thing to heare what relations goe of them, yea to see as much as wee see of them at this present; that a little poverty should beget so much riches; that ten men in such a short time should have bred as many of them already as there are Salvages in the New-found Land. Now all these are exempt from the jurisdiction of all Judges both Ecclesiastique and Secular; and a suit cannot bee commenced against them but onely before the Pope in person. If any man would plead with them, he must resolve to goe to Rome. For hearken what their new Bull say which they got from Gregory the thirteenth in the year 1584. *To be immediately subject to this See, and totally exempt from the jurisdiction of all Ordinaries and Delegates, and all other Judges, as wee also by virtue of these presents exempt them from them.* That this is a new priviledge may bee collected from the Bull of Julius the third, of the year 1550, where after hee hath reckoned up their priviledges, he addes, *Wee ordaine and declare that all those things and every one of them shall remaine firme and stable for ever, and shall bee inviolably observed and kept: and that they shall be so judged, expounded, and decided by all Judges and Commissaries, by what authority soever established: depriving all and every one of them of any power of judging and expounding them otherwise.* So that others beside the Pope may be their Judges, alwaies provided that they judge according to the Bulls which are granted unto them, and observe them.

CHAP.

CHAP. V.

Of the Letters of grace, or Pardons for criminall matters.



Having put the Pope above Councils, above the Emperour, above Princes, and above all Clergie men whatsoever: having given him the jurisdiction spirituall and temporall, and in a word the power of life and death over all creatures, as masters had anciently over their slaves, it was very good reason to leave his mercie to the liberty of his conscience, to grant life to such as he shall thinke good. Hence it is that these good Fathers leave it to his discretion to grant Letters of grace and pardon to whom hee please: for there is no restriction. They give order indeed that criminals and offenders shall not cozen his Holinesse, or at least that they reape no profit from their lying. For they command the Bishop that shall take the cognizance of them, or shall have passed the sentence of condemnation upon them, to take speciall knowledge of the subreption or obreption of the Popes letters, and of the knaverie that any shall use towards his Holinesse, for feare lest they make not a good market for their offences, and abate something of those rights which the Pope receives of them for the pardon. He that purposely laid in wait for a man is more deeply taxed than he that killed another onely by chance; and so of the rest. This is the meaning of that Decree. And to the intent that all may depend upon the Pope, and it may be further lawfull for him to barter with the delinquent for the pardon of his offence, in case hee will give a more reasonable price for it, the cognizance and judgement of this false information is given unto the Bishop onely by commission from the Pope; to whom consequently it will be ever lawfull to have recourse by way of Appeale or otherwise. Wee will here set downe the Decree at large, that the truth of our exposition may be better knowne.

3 And for as much as it happens now and then that upon fained causes, which yet seeme probable enough, some extort such pardons whereby the punishments inflicted upon them are either totally remitted, or abated: seeing it is intolerable that a lye, which displeaseth God so much, should not onely bee unpunished it selfe, but also procure pardon for another offence so the lye & therefore it determines and decrees as followes, That the Bishop residing upon his Church, may by himselfe, as Delegate for the See Apostolique, take the cognizance even summarily, of any subreption or obreption of pardon obtained by false petitions for the abolition from any publique crime or offence which he had taken into his inquisition, or remission of the punishment wherunto the delinquent was by him condemned, and the said pardon not admit, after it shall appeare that it was procured either by false information, or concealment of the truth.

3 Our ancient Canons never yet spoke of such Graces: they talk indeed of pardoning of sins as Priests; but not of remission of crimes as Kings & Princes. And that w^m Innocent the third speaks of subreption or obreption of the Popes letters, holds onely in civill matters. The glosse upon it, which expresseth divers cases of subreption and obreption assigns none else. The reference made by Gratian to the constitution of the Emperours Theodosius and Valentinian tends to another purpose; as namely to shew that the Pope hath no intention

Councell of Trent gives the Pope power to pardon criminals.

Sess. 13. cap. 5.
In aliis Sess. 3.
can. 4. & 5.

Vid. titulos de penitentia & remissionibus lib. 4. Decretal. in extravagans; Cap. super litteris extra. de rescriptis.

The Pope hath
not power to
pardon crimi-
nals,

*Le. rescrip. C. de
precib. Imp.
offer. Gratian.
caus. 25. q. 1. in
fin.*

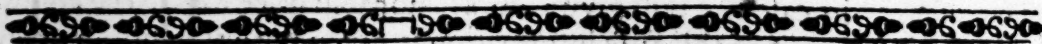
*Bellarm. Tom. 1
controvers. 2.
lib. 4. cap. 24.*

*Benedict. in
cap. Raynuitum
in verb. et uxor
nom. Adiluf.
Papon tit. de
grac. art.
Chap. 15. et 16.
des libertez de
l'Eglise Gallic.*

to take away another mans right by his dispensations. It is a thing never heard of in *France* before this present that Popes should intermeddle with granting of pardons. The very faculties of the Legats sent heretofore into this kingdom make not any mention of it, but onely of the remission of sinnes proceeding from crimes. And though there should be any such thing, yet they are still curb'd in with this bridle, *To use it in such things as are not contrary, derogatory, nor prejudiciall to the rights and prerogatives of the King and Kingdome, nor against the sacred Councils, the lawes of the Vniversities, the liberties of the Gallicane Church, and the Ordinances royall.*

4 The Clergie of *France* doe not hold their Ecclesiasticall jurisdiction of the Pope, but of the King alone; howsoever the Iesuites teach the contrary. When they doe not use it as they ought, when they connive at the punishment of crimes whereof they have the cognizance, the Courts of Parliament may interpose, by meanes of an Appeale as from abuse; especially considering it is it that grants them jurisdiction over spirituals. And if the question be of granting pardon to a Priest or other Ecclesiastique, not onely in a privileged case, but also upon a common crime by him committed; it belongs to the King onely to grant it, not to the Pope nor the Bishop. And so it hath beene alwaies accustomed to be done in *France*, as our Practitioners both ancient and modern doe assure us.

5 We goe yet further, which is, that the Pope cannot restore Clergy men to their former state, so as to free them from the infamy which they have incurred: nor lay men, unlesse it be to receive them into Orders, Offices, and Ecclesiasticall acts, and not otherwise. As also, that within this Realme he cannot pardon or remit the honorary amends adjudged by a lay man, albeit the condemnation were passed by an Ecclesiasticall Iudge, and that against a Clerke, as making such honorary condemnation a part of the civill satisfaction. These are two entire Chapters out of the Collection of the liberties of the Gallicane Church.



CHAP. VI.

Of the Popes Canons and Decrees.



He Emperour *Sigismund* made a very remarkable demand to this Council, for as much as concerns the Popes Constitutions and Decrees. It would not be amisse (saith he) that the multitude of humane Statutes and Decrees were lessened, and many superfluous ones cut off, and that the Prelates would conforme their constitutions to the obligation of the law of God. Heare now the justice which these Fathers did him. The holy Council hath thought good to put secular Princes in mind of their

*Conc. Trident.
sess. 25. cap. 20*

duty: trusting that they will not suffer their Officers or inferiour Magistrates to violate the immunity of the Church and Ecclesiasticall persons: but that they, together with the Princes themselves, will yeeld due obedience to the sacred Constitutions of Popes and Councils. Wherefore it decrees and commands that the sacred Canons, all Generall Councils, together with other Apostolicall Ordinances made in favour of Ecclesiasticall persons and Ecclesiasticall liberty, and against

the

the violators thereof (all which is renoues by this present Decree) bee precisely observed by all men.

Popes decrees
are usurpations.
Many of them
not received
before the
Trent Council.

2 See you here that which comprehendeth all the Canons, Decretals, Clementines, Extravagants, Bulls, Taxes, and all other Papall Constitutions and Ordinances of what kinde soever they bee; even such as concerne temporall matters, as the most of them do, and which containe some notable usurpations upon Kings and Princes, their Realmes and Dominions: for a man shall not finde so much as one of them which is not in favour of the Church. We may justly say that here is a brave bargain for the Pope, and that he could not hope for a greater advantage from the resolutions of these Fathers.

3 Wee shall observe in the first place, that there are a very many Decretals which were never in use before this Council; witnesse Cardinall Cusan; Wee see (saith he) an infinite number of Apostolicall Ordinances which were never received, not even then when they were made. Our France in particular hath rejected an infinite companie of them; as namely all those which are prejudiciall to the State, to the Edicts of our Sovereigne Princes, and to the liberties of our Gallicane Church. Wee must now receive them: and not only those which are contained in Gratians Decret, the Decretals of Gregory the ninth, Boniface the eight, the Clementines, and Extravagants, but besides all those that are contained in the booke intituled *Collectio diversarum Constitutionum, & literarum Romanorum Pontificum*: in another, called, *Epistola decretales Summorum Pontificum*. in three volumes: in another, intituled, *Eclogæ Bullarum & motuum propriorum*: in that which is called *Summa Pontificum*, and in the seventh booke of Decretals newly composed: in the rules of Chancery which are changed and rechanged a thousand times: and in other such like collections which containe yet three times as many more constitutions as are extant in the Ordinarie books.

Nicholas Cusanus
Jan. 1. 2. c. 11.

4 To this demand of the Emperour, wee must joine the judgement which our Predecessors made of the Decrets and Decretals; to the end that the justice which our Trent Fathers used in this regard may bee so much the more cleared. Albericus de Rosate, one of the best of our Commentatours, who lived about three hundred years agoe, unfolds their Cabal in this manner: The Presidents of the Court of Rome, by meanes of their cunning and aduise prudence have altered their Statutes and Decrees according to the varietie of the times; sometimes exalting their commands, otherwhiles abasing them from time to time. But to what end, save onely insensibly to inslave and bring under their feet (as they use to make their brag openly) all things both celestiall and terrestriall, spirituall and temporall?

Albericus de
Rosate in l. Be-
ne a Zenone
C. de quadrienn.
prescrip.

5 Everard Bishop of Saltzburg said full as much in an Imperiall Diet holden in Germany in the time of the Emperour Ludovicus Bavarus: The Pope (saith he) casts new projects in his breast, how to establish an Empire proper to himselfe. Hee chungeth the lawes, hee sets up his owne, he pollutes, he reaves, hee robs, hee cheats, yea hee kills. Marfilus de Padua speaks of this in divers passages of his *Defensor Pacis*. In the sixth Chapter after he hath quoted this place of Marke; You make the commandment of God of no effect through your traditions; hee puts this glosse upon it; Thus they doe which teach humane Decretals, which give the Bishop of Rome the power and lordship over temporal things, and those not Ecclesiasticall only, but even Imperiall and Royall, making a mock of the commandment of God.

Aventinus l. 7.
annal. Botorum.

Marfilus in 2.
part. def. pac.
c. 5. & 6.

6 In the twentieth third Chapter hee reckons up the pedigree and progresse of Papal Decrees: which will serve for a comment upon that which Albericus and Everard have delivered upon this subject; The Bishops of Rome (saith hee) having arrogated these things unto themselves, and relying upon the priviledges and grants of Princes, have consequently increased this title, which

Idem part. 2.
cap. 23.

By what de-
grees Popes
have usurped
over Princes, by
their Decrees.

especially when the Empire was vacant. First, they made certaine lawes a-
bout the Ecclesiasticall Order, and concerning Clerks, which they called De-
crees. After this they perswaded lay men to certaine Ordinances by way of
entreatie and exhortations, as fasting, and abstaining from certaine meats at
certaine times, to obtaine the suffrage and mercie of God: to remove cer-
taine contagions and tempests of the aire from among men; as appeares by
the legend of Saint *Gregory*, and some other Saints. Next, perceiving that
the Laity received them willingly, and that they observed them by reason of
their devotion, the custome being now growne ancient in such matters, they
begunne to alter those institutions which ran by way of entreatie, into com-
mands; being so bold as even to strike the transgressours of them with the
terroure of an anathema, or verball excommunication; yet alwayes under co-
lour of devotion and divine service: and this without licence from the hu-
mane lawgiver. The desire of domineering encreasing yet more and more in
them, and they perceiving withall that devout faithfull people were frigh-
ted at such words, by reason of their dulnes and ignorance of the law of God,
which perswaded them they were bound to all that was commanded them
by their prietts, upon paine of eternall damnation, the Bishops of *Rome*, with
the assembly of their Clergy, undertooke to enact certaine edicts, or oligar-
chicall and factious ordinances, concerning civill affaires, whereby they pro-
nounced and declared themselves, together with all those that receive their
order or office of Clerkship, yea even pure lay men, exempt from all pub-
lique charge: admitting even Secular married men to that office, who were
easily allured thereunto, that they might enjoy those immunities from pub-
lique charges: gaining unto themselves no small part of the people by that
meanes, whom they freed from the power of Princes and Magistrates: la-
bouring withall to draw yet a great many more from their obedience. By o-
ther edicts they denounced a curse or anathema against all such as doe any
personall injurie, whatsoever to those which are admitted into the number
of Clerks; defameing them publicly in Churches by excommunications,
and presenting them neverthelesse to get them punished by the punishments
prescribed by humane lawes. But the most horrible thing of all, and which
is most execrable in the office of Prietts, is, that the Bishops both of *Rome*,
and others to enhance their jurisdiction, and thereby their most dishonest
gaine, to the contempt of God and the open prejudice of Princes, doe ex-
communicate and debarre from the Sacraments of the Church as well Lay
men as Clerks, which neglect to pay certaine pecuniarie debts, or indeed
which are not able to doe it, to the paiement whereof within a set time they
were civilly obliged. And not being yet content with these things, but ai-
ming at the greatnesse of Secular Princes, (contrary to the commandement of
Christ and his Apostles) they take licence to make lawes distinct from those
which concerne the generalitie of the citizens; by declaring all the Clergie
exempt from them, and bringing in a civill division, and a pluralitie of Sove-
raigne principalities. For this is the root and originall of this contagion of
the Realme of *Italy*, from whence all scandals grow every day, and as long
as it continues, discords will never bee at an end. For the Bishop of *Rome*
hath enjoyed this power a long time already, upon which hee entered by a
covert prevarication by litle and litle; and the boldnesse of one of them hath
burst out so farre, that hee hath declared in his writings, that the *Roman* Em-
perour is bound to him by an oath of allegiance, as subject to him by a co-
active jurisdiction: as may bee gathered from the contemptible and ridicu-
lous covert pretences in their narrations, which they call Decretals. He adds
further, The Bishops of *Rome* with their Cardinals durst not call these fa-
ctious Ordinances, lawes; but they have Christened them by the name of
Decretals:

• Decretals : howbeit they meane by them to binde men over to punishment, and that considering the state of the present age, by a coactive power, just as humane lawgivers. Which at first they durst not expresse by the name of lawes, fearing the opposition and correction of the lawgiver, considering that therein they incurred the crime of treason. Afterwards they called these their Ordinances, Canon law; to the intent that under colour of the name, though wickedly used, they might bee more authentique; and further to beget in faithfull people a credit and reverence, and obedience to them. Hee speaks yet more of them in the twentie first, and twentie fift Chapters of his second part, and some other places, but wee will content our selves with this.

Popes Decretals why called Canon law. Much of them supposititious.

7 Gregory Haymbourg a German Lawyer, who lived in the time of Pius the second, about an hundred and fiftie years agoe, hath a discourse in a certain booke of his, which comes neare to this of *Marsilius*; Their Decret (saith he) was publiquely composed under Lotharius and Conrad, to which, howbeit there be much hay and straw of the Pope, mingled with the authorities of Saints, some notwithstanding give so much reverence, as it seemes the Gospel were contained in it. And from thence carnall Popes have arrogated to themselves by virtue of this Decree (as an authentique book) not of the Gospel, a plenitude of power. Afterwards Innocent the third compiled the Decretals, for the better defending of their plenitude of power. And whatsoever they could wrest from factious and schismaticall Kings and Emperours, that they have transcribed into the sixth book of the Decretals, and into the Clementines, as rights bestowed upon them by Christ.

Gregorius Haymburg in consuet. primat. Pap. 2. Confid. princip.

8 Our French men also have stoutly rejected these upstart Decrets, and have contented themselves with the ancient; with those namely which were contained in an ancient collection, called *Codex Canonum*, not willing to admitte of any other, old or new: the one as being supposititious, the other as too presumptuous. There was a great quarrell hereabouts betwixt the Bishops of France, and Pope Nicholas the first, in the time of Charles the Bald; inas-much as Nicholas would have obtruded certaine Decrees upon them for currant money which hee said were ancient: which the other refused, because they were not comprehended in their Code. Wee are informed of this controverisie, by one of the Epistles of the same Pope, writ to the Archbishops and Bishops of France, where hee straines to refute their opinion concerning that point: Howbeit (saith he) some of you have writ that these Decretals of ancient Popes cannot be found enrolled in all the bodie of the Code of Canons (notwithstanding that they use them without distinction when they make for their purpose,) and maintaine that they ought not to be received now, so to impair the power of the See Apostolique, and augment their owne priviledges. If they say then that the Decretall Epistles of the ancient Popes of Rome ought not to bee admitted, because they are not inserted in the Code of Canon; neither should any edict or rescript of Saint Gregory be received; nor of any other either before or after him, because they cannot be found in the Code of Canons. All this was inserted into Gratians Decret. Where it is to be observed, that all those goodly Decretals were forged since, which goe under the names of Clement, Anaclet, Evaristus, Alexander, Telesphorus, and an infinite number besides, which all men of judgement pronounce false upon the bare reading: and yet notwithstanding our Councell gives the same authoritie to them which it does to the holy Scriptures.

Nicolaus 1. in epist. ad Archiepisc. et episcopos Gallie. que extat To. 3. Biblioth. Patrum. Et in Can. 88 Romanorum dist. 19.

9 Now one of the maine arguments of this forgerie is, that in this Code were contained only the Decrees of Sylvester, Symmachus, Innocent, Zozimus, Celestine, Leo, Gelasius, Hilarie, Symonachus, Hormisdas, Simplicius, and Gregory the younger. And that Pope Leo the fourth, one of Pope Nicholas his predecessors,

Val. Can. de H. in illis dist. 20.

The injustice
and multitude
of Popes De-
crees, Decrets,
&c.

predecessours, writ to the Bishops of *Brittaine*; *That these were the Canons which were received in Ecclesiasticall judgements*: meaning those which are contained in this Code, as it is said in *Gratians Decrets*. Which *Gregory* the thirteenth in his late purgation expounds thus, *He meanes* (saith he) *the Canons and rules contained in the Corpus or Codex Canonum, which the Bishops of Rome were wont especially to use in judgements*. And this very Code was sent by Pope *Adrian* the first, to the Emperour *Charles* the Great; as is gathered out of certaine verses which we read at the beginning of it.

Matth Baris.
in Henrico 3.
p. 798.
Et Matth.
Westmonast. in
2. part. sub
ann. 1247.
p. 217.

10 The Nobilitie of *France* finding themselves grieved with these Decrees of *Rome*, complaine very bitterly of them about the yeare 1247, under the reigne of Saint *Lewes*, setting forth a certaine writing thereupon, which went even into forraine Nations, and was inserted at large in the historie of *England*: See here a piece of it; *They doe so annull the Secular jurisdiction by their lawes, that the children of servants are made Iudges of free men and their children; howbeit according to the ancient and Secular lawes, they ought rather to be judged by us: and they should not derogate from the customes of their predecessors, by their upstart constitutions; so as they make us in a worse state than God made the Gentiles, when he said, Give unto Cesar the things which are Cesars, and to God the things which are Gods.*

11 In the time of *Charles* the fift, there was a booke made in *France*, called, *The Vergers dreame*, first made in Latine, then translated into French by his command. In the seventh and eighth Chapters whereof the Clergy man and the Knight conferre together on this wise; 'I call (saith the Clerk) and 'account the Decrees and Decretals of the holy fathers of *Rome* to bee good 'law, which binde and oblige every true Christian, as a subject and sonne of 'holy Church our mother. To whom the Knight replies, 'If the termes of 'Rome be Decrees, or Decretals, Ordinances, or Constitutions touching the 'temporall affaires of Kings, Princes, or other Secular Lords, you Clerks among 'your selves shall call and account them law, if you please. But the truth is, 'no man can establish nor ordaine any thing where he hath no power nor au- 'thoritie. So as the King of *France* hath no power to make a law or ordi- 'nance to bind and tie the Empire: so neither can the lawes of the Emperour 'binde the King of *France* nor his subjects. And a little after, *I hold it therefore a frivolous thing, and very ridiculous, that the holy Father should make any De- cree, Decretal, or Constitution about temporall matters.* And yet the greatelt part of them were made about things of that nature.

Cardinalis de
Alliaco in tract.
de reformat. Ec-
cles. confd. 2.
p. 105.

12 The Cardinal of *Cambray* in his book of the reformation of the Church, demandeth also that these Decretals bee corrected. *For the third grievance* (saith he. speaking of the Pope) *which hee imposeth upon other men by the hea- vie multitude of his Statutes, and Canons, and Decretals, those mainly which seeme to binde over to grievous punishments, and especially to mortall sins, should be taken order with.*

Nicol. de Clem.
in l. de ruina et
reparat. Eccles.

13 *Nicholas de Clemangis* hath spoke yet more freely of this point: 'So 'many new rules and Constitutions (saith he) set out by every Pope, the ob- 'servance whereof is enjoined contrary to the ancient lawes and ordinances 'of our forefathers; what are they else but captious snares, and seeds of law 'suits, very fertile, of which those wrangling practicioners of the Court of 'Rome doe serve themselves, those sophistical corruptours of law, to raise an 'infinite number of suits against right and truth, with a thousand arts of doing 'harme?

Du Tillet en
s'advis sur les
libertes de l'
Eglise Gallica-
ne p. 5.

14 *Philip* the Faire was advised by the Princes and *French* Barons, *Not to suffer the Pope to make any Ordinances about things belonging to his Kingdome, without the counsell of him and his, nor any new and unwonted thing to be brought in thither*: So saith Mr. *John du Tillet* in his advice concerning the liberties of

of the *Gallicane Church*. And it is the very counsell which *Endeu Duke of Burgundy* gave him, which is yet to bee seene among the *treasurie of Charters*.

15 That which *Mr. Francis Duarenus*, one of our most learned Lawyers said concerning this subject, in the Preface of his book *De sacris Ecclesia ministeriis*, printed 1551, might have moved the fathers of this Councell to a reformation. 'Many (saith hee) are of this opinion, that the Canon law is no-
'thing but a confused and disorderly masse of decrees and constitutions set out
'by some halfe-learned Popes, rather for their owne gaine than for any com-
'moditie that redounds upon the Common-wealth of Christendome from
'thence; the knowledge whereof seemes neither commendable nor necessary.
'And there does not want some that plainly professe that this law is all full
'of errors; of which number *Cynus Pistoriensis*, a Lawyer of great repute
'was one. And having spoken of *Gratians Decret*, which hee saith contains
some good things, and some errors withall. *The other volumes* (saith hee)
is the Decretals containing the epistles of diverse Popes of Rome, called Decre-
tals. In which volume of Decretals wee finde many things which degenerate much
from that ancient discipline delivered in Gratians Decret; and thence rose that
common proverb amongst them, That it was never a good world since the Decret
ooke wing and flew away. And presently after, 'The other booke is *Boniface*
'the eight's; which, as wee understand was never received in *France*, because
'that divers constitutions therein contained were made in hatred and despite
'of King *Philip the Faire*, and devised for the commoditie of the Court of
'*Rome*. He addes yet further, 'We are enforced to confesse, betide us well,
'betide us woe, that the manners of the Clergy of *Rome* are so degenerate by
'litle and litle, that the later constitutions of Popes fall short of the former:
'and it seemes a man may rightly say of them as *Homer* writ; Very few chil-
'dren are like their fathers in virtue, many worse, scarce any to bee found bet-
'ter. Wherefore as it is necessarie to reduce the manners of Clergy men to
'their ancient religion; so it would be expedient peradventure to take all that
'is most true, most pure, and most profitable, in so many divers Papall consti-
'tutions, and reduce them into one short volume. And wee are not out of
'hopes that this may one day bee brought to passe: euen during the life of *Iu-*
'*lius* the third of present being, who hath the bruit and report (I wish it bee
'not vaine) of one that seriously thinkes upon repairing the ruines of the
'Church, and restoring the ancient Canons. The event hath proved that
this bruit was vaine; for neither *Iulius* nor any of his Successours ever put his
hand to this reformation: unlesse a man would ascribe that to *Gregory* the
thirteenth, who hath caused many things to bee altered and rased out of those
books which were disadvantageous to the Pope, and favourable to *France*,
and all those whose rights are usurped by the Pope.

16 We will adde for conclusion that which *Mr. Philibert Bugnon*, in his
tract Of abrogated Lawes, saith upon this subject: *Thus the Decretals were*
brought in, received and admitted by all Christendome; before which the Court
of Rome never received those basling disputes which encrease from day to day.
Therefore Mr. Francis Rabelais said not without cause in his merry Pantagruell
by way of a common proverbe:

*Since the Decree away did flie
And souldiers knapsacks wore,
Since Monkes would need on horsebacke ride,
The world's worse than before.*

17 After all these authorities and testimonies we will observe that right as
the

The ignorance,
errors, and in-
justice of Popes
Decrees, &c.

Catalogue testi-
um vct. r. p. 493

Bugnon l. i. v. 1.
chap. 4.

Popes Decrees
usurpe over ci-
vill lawes. The
worst Popes
authors of the
Decrees, &c.

a *Alphonsum de
Castro in exord.
dist. 20.*

Hofstiensis.

*Ioannes An-
draas.*

*Cardinalis Flo-
rentinus in can.
ult.*

*Extra. de pre-
car.*

Albericus in

Lexico. in verbo

Gratian.

*Felin. in c. 2. de
rescript.*

Petrus de Fer-

rariu in tit. for-

ma inquisit. su-

per verb. has

est qued.

Boerius decis.

109. & alii ci-

rati à Tiraquel

la in tract. de

nobilit. cap. 31.

num. 53.

Francis. Dua-

renus in prol:

lib. de minist.

Eccles.

b Stanislau

Hofius lib. 2. de

legitim. judic.

c Vid. Tiraquel-

lam in tract. de

nobilit. cap. 31.

num. 537.

Platina in

Greg. 9.

Blondus &

Platina.

*Cap. Roman de
jurejur. in Cle-
mentin.*

*Martinus po-
lonus lib. 4. in
Clemente 5. sub
ann. 1513.*

*Mutius Ger-
man. Chron. lib.
24. Et Alber-
tus Argentinens-
is in Chron.*

the Emperour *Iustinian* gave the force of a law to the Resolutions of our law-
yers, so our Popes now adaies give the very same force to the constitutions of
the Emperours, which are thought weake and feeble if they be not canonized
in their Decrees, or confirmed by them. See what we are come to. They doe
yet more: for like that *Romane* Emperour who caused the heads to be stricke
off of the statues of *Iupiter* that hee might substitute his owne in the place, so
they have ascribed to divers Popes manie imperiall lawes out of the Code of
Theodosius, the Bookes of *Iustinian*, and the very Capitularie of *Charles* the
Great. But see here that which is utterly intollerable, which is that they make
void civill lawes of Emperours and Kings by their Decretals, they adde unto
them, and diminish them, they derogate from, yea they quite abrogate them.

18 We let alone an infinite many errors and falsities which have beene
observed by divers learned men either Divines or Lawyers, which neverthe-
lesse were confirmed by this Councell, contenting our selves with producing
the testimonie of *Stanislau Hofius*, one of the Presidents of our Councell,
who saith that *Gratian* relates a fable in his Decree. *We doe not see* (saith hee)
whence it comes to passe that Gratian hath set out this fable, but he that shall read
his workes attentively will finde that he hath pumped more from the rivers and o-
ther compilers than from the fountaines. Nor will wee urge that which some
have recorded, that how ever the Popes have all law within the cabinet of
their owne bosome, neverthelesse they have forgot it sometimes, not remem-
bring themselves of some other Constitutions which were formerly made.
Which is a prettie modest Apologie. Wee shall say onely for conclusion, that
the authors of these Decrees and Decretals were the most vicious and ambiti-
ous Popes of all.

19 *Alexander* the third, who authorized *Gratians* Decree, and gave it the
force of a Papall law, was unjustly elected, accounted for an Anti-Pope, and
declared such by a very famous Councell law fully called. Hee excommunica-
ted *Fredericke* the first very unjustly, and carried himselfe so insolently to-
wards him, that he made him walke bare foot in his chamber, and putting his
foot upon his neck spoke these words, *Super Aspidem & Basiliscum, &c.* Thou
shalt goe upon the Lion and the Adder. To absolve King *Henry* the second of
England from that ill usage which hee had showne to *Thomas* Archbishop of
Canterbury, he ordained that Appeales should bee allowed to issue out of his
kingdome to *Rome*. *Gregory* the ninth, the compiler of the Decretals, tooke
upon him to excommunicate *Fredericke* the second very unjustly: promised
life eternall to such as would make warre upon him: at last sold him his peace
and pardon for an inestimable summe of gold. As for *Boniface* the eight, the
author of the sixt booke of the Decretals, who excommunicated *Philip* the
Faire, and called himselfe Lord of all the world, who wore both the swords,
and reigned with incredible insolence, he is so well knowne that he needs not
my commendations. *Clement* the fift, the authour of those Decretals that beare
his name, declares that the Emperour takes an oath of allegiance to the Pope:
that he is not Emperour till after hee have received his consecration and the
Crowne from his hand. This Pope caused his Clementines to be published at
Montelimar, where he then was, and had resolved to intitle them the seventh
booke of Decretals, but he dying in the interim at *Rochemaure*, they hung in
suspense till such time as *John* the twentieth second his successor sent them over
the Vniversities. This is that *John* that excommunicated *Ludovicus Bavarus*
because he had taken upon him the name and title of Emperour before he was
crowned by him: who being sued unto for peace and amitie by that Empe-
rour, would not hearken to it, till he should first deuest himselfe of the Empire
and come to him in the qualitie of a private man: whose sentence was pro-
nounced a nullitie by the States of *Germany*. I doe not speake of the warres
which

which were raised by their ambition, to the great destruction and calamitie of Christians: nor of many other vices that abounded in them. It sufficeth me to touch upon some few of the most eminent of them. See here our goodly law-givers! Let us from henceforth in stead of Oracles receive those fumes and vanities which they present us with in their bookes.

Trent Councel
unjustly gives
the Pope power
over all bookes.
*Nau. ler. tom. 2.
Generat. 44.*

CHAP. VII.

Of the censure of Bookes.



Having approved and confirm'd the Popes Decrees and Decretals, it was necessary they should condemne those many bookes that are in the world which teach a quite contrary doctrine. For they are as so many witnesses of the so many errors and falsities as are in them, and of the folly of those which approved them. Our Fathers of Trent thought they could not by this charge upon any that would better quit himselfe of it than his Holinesse himselfe, considering it so nearly concernes his copihold. This is the reason they decree in this manner. *The holy Councell in the second Session holden under our holy Father Pius the fourth, made a committee to certaine select Fathers that they should consider what was requisite to be done concerning divers censures and suspected or pernicious books, and that they should make report thereof to the holy Councell; hearing now that they have finished this worke, and seeing that by reason of the multitude and variety of bookes it cannot bee distinctly examined by the holy Synod; it therefore commands that whatsoever hath beene done by them in this particular bee presented to the most holy Pope of Rome, to be concluded and set out by his judgement and authority.*

*Concil. Trid.
Sess. 25. sub fin.*

3 This Canon must be rightly understood with all its ampliatiions, whereof the first is, That power is not onely given to the Pope to determine and publish what had beene already done, but also to doe the like for ever after with all bookes wherein should bee found any thing that may be offensive to him. The words of the Decree seeme repugnant to this in some kinde, when they speake of that which hath beene done already; but our Doctors say that *Beneficia non sunt restringenda*. Next, it belongs to the Popes to put expositions upon the Canons and Decrees of this Councell; for that power is given unto them in expresse termes, at the end of the last Session. Now the Popes have understood it so, and those which came after have not omitted to doe their endeavour in this kinde, so that a man would wrong them to accuse them of negligence. The last impression of their *Index expurgatorius* set forth at Paris by Laurence Sonnius the year 1599 will alwaies serve them for a just defence, which carries this inscription: *The Index of bookes prohibited, with the rules made by the Fathers select by the Councell of Trent, first published by the authority of Pius the fourth, afterwards augmented by Sixtus the fift, and now lastly revised and set forth by the command of our holy Father Clement the eight.* Revised (that no scruple bee left) signifies as much as augmented, afterwards. Which is necessary: for those many wicked bookes must be excommunicated which say worse than hang'em to our later Popes, the Authors of our warres, and almost to all the rest, yea (which is more grievous) to the Popedome it selfe

Books condemn-
ed writ in de-
fence of secular
Princes rights.

selfe which they have laboured to overthrow. Wherein Catholiques have become as busie as any others, if not more; to the great scandall of the Church. The second ampliation is, That power is given unto him to condemne all those bookes as hereticall which were made in defence of the lawes, power, and authoritie of Emperours, Kings, and Princes; and that so farre forth as they cannot be spoken of but as vassals and feuderaries to *Rome*, and to bestow any other title, qualitie, or prerogative upon them, is to speake blasphemie against the holy See.

3 For this reason it was necessarie to condemne the Epistles of the Emperour *Fredericke* the second for heresie, which were collected into one volume by *Peter de Vineis* his Chancelour, which containe a defence of the Imperiall Lawes against the Popes usurpations. The workes of *William Occam* a *Franciscan*, and *Marsilius* of *Padua* a *Devine*, who defend the same rights in behalfe of the Emperour *Lewes* the fourth. The booke of *Antonius de Rosellis* of the power and authoritie of the Pope, made upon the same occasion in behalf of the Emperour *Fredericke* the third, and in defence of his rights, being dedicated unto him for that purpose. The treatise of *Zabarell* Cardinall of *Florence*, intituled, *Of schismes which should bee taken away by the Emperours authority*, made a little after the first Councell of *Pisa*; where he speakes of the Imperiall power in the Church somewhat too freely, to the prejudice of our Popes. The Monarchie of *Dantes*, where he treats that the Emperour depends not upon the Pope, but holds his Empire from God. The *Vergers* dreame (and another booke intituled *A dispute betwixt the Clerke and the Souldier*, which is an abridgement of the former) containing a defence of the Lawes Royall of the Kings of *France* against the Popes usurpations, dedicated unto *Charles* the fift, and translated into *French* by his command. *Peter de Ferraris* the Practitioner, who is put in two places for feare of missing him; in the one hee is condemn'd outright, in the other they have done him this favour to spare his life, upon condition that he be gelded, which was afterwards put in execution to the purpose. They have not spared even Pope *Pius* the second himselfe, not content with that declaration which he set forth in his Bull, declaring all that to be hereticall which he had written against the Popes authoritie when he was called *Aeneas Sylvius*, and by consequent the booke which he intituled *De origine & auctoritate Imperatoris Romani*, where he speakes of Imperiall lawes in other termes than the Popes doe, to the prejudice of their Decretals. Our Lawyer *Baldwin*, for all he was an enemy to the Hugonots, yet could not escape the furie of *Rome*, but was condemned as a Heretique for a booke which he made, *Of the Ecclesiasticall and Civill Lawes of the Emperour Constantine*. And because he gives the Emperours too much power over Ecclesiasticall discipline; whereas by the doctrine of our Popes they are no more but meere executioners of their Decrees and Constitutions, having no power to intermeddle further.

4 All other bookes which have treated of the Imperiall or Royall power, whether for temporall matters, exempting them from the power or jurisdiction of Popes, or for spirituall and ecclesiasticall discipline, have undergone the like condemnation, and amongst others that which beares this title, *What manner of power it is that belongs to Kings*. The historie of *Francis Guicciardine* where he speakes of the usurpation of Popes, and the progresse of them. The lives of the Emperours set out by *John Cuspinian*, where he speakes of the same things. The historians of *Germany*, printed by *Wachetius* the year 1584, because they relate in their histories the unjust proceedings of the Popes against the Emperours, and afford some testimonies for the rights of the Empire. The *Flowers of Histories*, with the Author of them *Matthieu Westminster*, an *English Monke*, who liv'd about the year 1375, because he hath oft time spoken

ken his opinion concerning such usurpations and unjust dealings. The Commentaries of *Clandius Effenfens*, a Sorbon doctour upon the Epistle to *Titus*, because he speaks too favourably in behalfe of Kings, and gives them too great authoritie in the Church, as also because he speaks a litle too freely against our Council, and the beattlynesse of *Rome*. That great worke of *Marguarinus de la Bigne* a Sorbon Doctour, intitled, *Bibliotheca Sanctorum patrum*, because the Pragmatique of Saint *Lewes* concerning the rights and liberties of the *Gallican* Church is there found, and other writings and tracts which shewes the power of our Kings, as the Historie of *Gregorie* Archbishop of *Tours*, *Ado* Archbishop of *Vienna*, *Sigebert* Abbat of *Gemelard*, who speaks also of the Imperiall authoritie. That goodly remonstrance of the Court of Parliament of *Paris*, exhibited to King *Lewes*, wherein is represented the power and authoritie of our Kings in the Church, the opposition which they have made against those Popes which would have invaded our liberties; which they have put also in two places, that so an iterated act may bee of more force; and many more which a man may take notice of at leasure.

What bookes
prohibited by
Papists, & why.

5 The third ampliacion is, That they have power to abolish and condemne all those books and writings which have been published at divers times in defence of Councils, and of the authoritie of the Church against the usurpations of Popes. And upon this consideration it is that the book of *Zabarel* Cardinall of *Florence*, concerning schisme, was condemned, together with some others whereof we have spoken already. The counsell of the Abbat of *Panormo* made in defence of the Council of *Basil*: The book of *Aeneas Sylvius*, of the same Council of *Basil*; which troubles them infinitely. And it is very credible the author would never have thought of doing of it, if hee had beleevved that ever he should have beene Pope. The Acts of the second Council of *Pisa*, which they call a *Conventicle*, which tends to the disgrace of us *Frenchmen*, of whom it did mainly consist. The booke of *Duarenius*, intitled, *De sacris Ecclesie ministeriis*; because hee limits the Popes power, and many other Authours.

6 The fourth ampliacion is, That it is lawfull for them to enroll amongst these the writings of all such as have recorded the vices and abuses of the Popes Court of *Rome*, to demand a reformation thereof: Or who have spoke of them by way of complaint, or otherwise: as *Theodoric* of *Nisem*, one of their Officers, who hath told us strange stories of the lives of Popes during their schisme. Cardinall *Benno*, who hath told us wonders of *Gregorie* the seventh, who was called *Hildebrand*, and some other Popes that lived before him. *Nicholas de Clemangis* a devine of *Paris*, who speaks very freely, after the *French* fashion, of the abuses of the Court of *Rome*. The hundred grievances of the *German* Nation, put up in the Diet of *Noremberg* in the yeare 1522, by the Catholique Princes, and other States there assembled, to be presented to the future Council, which was afterwards called at *Trent*: (See what justice was done to them in this case.) As also all the tracts put together in a book, intitled, *Fasciculus rerum expetendarum & fugiendarum*, which concerne especially this reformation; and others in great abundance.

7 Many ampliacions yet more might bee made, but wee will content ourselves with these. This were too much if our Popes could be content with it. It is to be feared that they will not tho, and that they will increase their roll from yeare to yeare. Wee shall see them shortly take upon them to abolish the lawes, edicts, constitutions and ordinances ancient and Moderne of Emperours and Kings. To wit, all those that speake of Ecclesiasticall discipline; of the authoritie of Princes in the Church; in justice; in election, and nomination to Bishopricks; of their rights and priviledges, and the liberties of their Kingdomes and Empires. It is their meaning that no man shall make any ques-

Bull *de cœna*
Domini how
injurious to lay
Magistrates,

Vid. *Collectio-*
nem diversarū
Constitution.
Romanorum
Pontificum, in
fine.
Et eclogam
Bullarum &
motuum propi-
orum. pag. 316.

stion of it, but they durst not as yet leap beyond their limits, for feare least the heaviness of their load should make men kick. They come to it by degrees, as they have alwaies done. And to make their designe appeare as cleare as the day, we need but represent two of their pieces, to wit, the Bull *De cœna domini*, which they continually renew. Looke the sixteenth Article of that which Gregory the thirteenth sent into France in the yeare 1575. and Gregory the fourteenth during our last troubles. *We excommunicate and anathematize all and every one, the Magistrates, Counsellours, Presidents, Auditours, and other Judges by what name soever they be called, the Chancelours, Vicechancelours, Notaries, Registers, and Executours, their servants and others which have any thing to doe, in what sort or manner soever, with capitall or criminall causes against Ecclesiasticall persons, in banishing or arresting them, passing or pronouncing sentence against them, and putting them in execution, even under pretence of any priviledges granted by the See Apostolique, upon what causes, and in what tenor and forme soever, to Kings, Dukes, Princes, Republicques, Monarchies, Cities, and other Potentates, by what name and title soever they be called, which we will not have to be usefull for them in any thing, repealing them all from henceforth, and declaring them to be nullities.* See here all the Judges Royall both superiour and inferiour, utterly despoyled of the cognizance of criminall causes!

8 The twelfth Article speaks on this sort; *Wee excommunicate all and every the Chancelours, Vicechancelours, Counsellours, ordinarie and extraordinarie, of all Kings and Princes, the Presidents of Chanceries, Counsels, and Parliaments, as also the Atturneyes generall of them and other Secular Princes, though they be in dignitie Imperiall, Royall, Ducall, or any other by what name soever it be called: and other Judges as well ordinarie as by delegation: as also the Archbishops, Bishops, Abbats, Commendatories, Vicars and Officials, who by themselves, or by any other, under pretence of Exemptions, letters of grace, or other Apostolicall letters, doe summon before them our Auditours, Commissaries, and other Ecclesiasticall Judges, with the causes concerning benefices, tithes and other spirituall matters, or such as are annexed to them; and hinder the course of them by any lay authoritie, and interpose themselves to take cognizance of them in the qualitie of Judges.*

9 This is not all; for in the following Article hee goes yet further, striking a heave blow at the Ordinances of our Kings. 'Those also which under pretence of their Office, or at the instance of any man whatsoever, draw before them to their bench, Audience, Chancerie, Counsell or Parliament, Ecclesiasticall persons, Chapters, Covents, and Colledges of all Churches, or cause them to be brought in question before them, or procure them directly or indirectly, under what colour soever, beyond the appointment of the Canon law. Those also which ordaine and set forth Statutes, Ordinances, Constitutions, Pragmatiques, or other Decrees whatsoever, in generall or in speciall, for any cause or colour whatsoever, even under pretence of Apostolicall letters, nor now in practise, or repeated, or of any custome, or priviledge, or any other manner whatsoever: or that make use of them when they are made and ordained, when by them the Ecclesiasticall libertie is abolished, impaired, depressed, or restrained in any manner whatsoever; or who do any prejudice to our lawes, and those of our See, directly or indirectly, implicitly, or explicitly.

10 See yet another which followes after this. 'Those likewise which doe any way hinder the Archbishops, Bishops, and other Prelats superiour and inferiour, and all other ordinarie Ecclesiasticall Judges, in the exercise of their Ecclesiasticall jurisdiction against any person; according as the Canons, the sacred Constitutions of the Church, the Decretals of generall Councils, and principally

‘ principally that of *Trent* doe ordaine. There is further in the same Bull some excommunications against those which ‘ appeal from the Popes sentence, to Generall Councils : Against ‘ those that hinder Clergy or Lay men from going to plead at *Rome*, which is a remarkable thing : Against ‘ Kings and Princes which make the fruits of Ecclesiasticall livings bee sequestred upon any occasion whatsoever, which concernes the right of the Crowne : Against those which impose any tenths, subsidies, or other taxes.

Popes bull injurious to the Gallicane liberties.

^a Cap. 2. ejusd. Bullæ.

^b Cap. 11. ejusd. Bullæ.

^c Cap. 15. ejusd. Bullæ.

11 All this is leveld against the rights of the King, and the liberties of the *Gallican Church*. I aske now, seeing our Popes take upon them to excommunicate our Kings, which make ordinances concerning such matters, their Officers and Magistrates, and all others which practise them, whether they will make any conscience of putting forthwith such lawes and ordinances into their *Index expurgatorius* ? Let a man goe about to put all the distinctions which hee can devise to save our liberties, upon this Council ; will not it bee lawfull for the Pope, when he shall please to derogate from them, to come in with a *non obstante* ? Doth not hee in the fore-mentioned Bull repeall all the priviledges granted by the See Apostolique ? His successours shall not they have the same power that hee hath ?

12 The other piece which wee promise I, shall bee taken out of the privie Counsell which was holden at *Rome* almost at the same time, when the former Bull was sent, which was found in the Advocat *David*s trunk, where it is said ; ‘ That the successours of *Hugh Capet*, to undoe the Church, brought ‘ in that damnable errour, which the *French* men call the Liberties of the *Gallican Church* ; which is nothing else but a refuge for the *Waldenses*, *Albigenses*, poore of *Lyons*, *Lutherans*, and *Calvinists* at this present. And in another Article it is said ; ‘ That all Edicts made within the Kingdome, of what standing soever, if they bee repugnant to Councils, shall be cassed, repealed, and ‘ disannull’d. As much as to say, al the Edicts concerning the rights of our Kings, the good of the Kingdome, and the liberties of the *Gallican Church* : which are all abolished and brought to nothing by the Council of *Trent*.



A
R E V I E W
 OF THE COUNCELL
 OF T R E N T.

B O O K E VII.

C H A P. I.

*That the Councell of Trent tends to the deprefſion and abaſing
 of the authority of Chriſtian Princes.*

I



His redoubted greatneſſe, to which the Pope is exalted by this Councell, doth diminish as much not onely the power of Councels and Clergie-men, but alſo that of Chriſtian Princes. Theſe are their ſpoiles, their Scepters, their Crownes, their juſtice, their ſoveraigne authoritie, their honours and preheminences: all this is violently pull'd from them and transferr'd upon another lord. In the firſt place they are depriv'd outright of that power which they have over Eccleſiaſtical things and perſons, due unto them both by divine and humane law. The calling of Councels is taken from them; the preſidence in them; the approbation and authorizing of the determinations made in them; the nomination, election, or inveſtiture to the Biſhopriques within their Empires and Dominions, juſtice civill and criminall upon the goods and perſons, and diſcipline Eccleſiaſticall, and many other ſuch like things. It tacitely approves, yea in many things expreſſely, the unmeaſured power and dominion which the Popes have uſurped upon Kingdomes and Empires, upon the election and depoſition of

This Councell
 wherein derogatory to Prin-
 ces.

Princes grie-
vances against
the Council of
Trents de-
crees.

Concil. Trid.
cap. 15. Sess. 7.

Sess. 21. c. 4.

Sess. 24. c. 13.

Sess. 22. c. 8. 9.

Sess. 22. c. 10.

Sess. 22. c. 11.

Sess. 24. can. 19.

Sess. 24. cap. 7.

Sess. 24. c. 8.

Sess. 25. c. 9.

Sess. 25. c. 5.

Sess. 25. c. 19.

Epist. 1 ad Co-
rinth. c. 9. v. 11.

Iohn 1. 8.

Iohn 6.

Kings and Princes, and upon all that belongs unto their state. It disannuls their lawes and ordinances, and on the contrarie establissheth those of the Popes, and condemns all those that have defended their rights. All this is handled in the former bookes, and it would be impertinent to use repetitions. And therefore we send the reader backe thither. We will here adde that which remains to be spoke of that subject.

2 They are further grieved inasmuch as the Councell takes upon it more than belongs unto it in point of law concerning temporall matters, which is above their jurisdiction; for it disposeth of the administration of Hospitals and their revenues: It ordaines concerning the making up of their accounts: It compels the people to allow maintenance to their Priests: Gives power to the Bishops and Ecclesiasticall Ordinaries as Delegates for the Pope, to be the executioners, in cases commanded by law, of all donations to pious uses, as well by last will and testament, as amongst the living: to visit Hospitals, Colledges, and Schooles: to take the accounts of lay men for matter of buildings, Hospitals, alms, all customs and priviledges whatsoever to the contrarie notwithstanding: To examine Notaries elected by the authoritie Royall and Imperiall, as Delegates for the See Apostolique; and if they finde them insufficient or peccant in any thing concerning their office, to suspend them for a time, or deprive them for ever. It deprives the lay patron of his right of patronage in certaine cases: Gives the entire cognizance of causes Matrimoniall to the Church: Imposeth a punishment upon ravishers of women whether lay men or Clergy, declaring them to be incapable of any dignitie; and condemnes them to give a dowrie unto those that they have ravished: It gives power to the Ecclesiasticall Judges to proceed rigorously against lay men that keepe concubines according to the qualitie of their crime, in case they make no reckoning of Ecclesiasticall censures. And grievously to punish those women which live openly with their adulterers and concubinaries, according to the hainousnesse of their crime, though no man required them to it: and that they bee corrected out of the towne or diocesse of Ecclesiasticall Ordinaries, calling in to their assistance the secular arme, if need be: It prescribes a forme, and that a very new one, to prove rights of patronage: It useth commands to the secular Judges, which they should not receive but from their Sovereigne Princes.

3 But one of their greatest usurpations in that regard is that which was made concerning duels. First, in the verie prohibition of them, forasmuch as seeing they were allowed by humane lawes, they should have bin prohibited & forbidden by them too; that so Clergie men intrench not upon lay men, but every one contain himself within his own bounds. Secondly, in the confiscation of Cities and other places, belonging to the Emperour, Kings, Princes, or any other persons where such duels shall bee fought with their leave. Thirdly, in the forfeiture of all the goods, as well of those that fight, as of their seconds. To make it appeare that those are notorious usurpations, wee will set downe this Maxime, That a Councell or the Church hath no coactive jurisdiction over Kings and Princes. And likewise this other, That a Councell hath no power in temporall matters. For the first, we affirme that a Councell hath no power save onely over that which concernes the spirituall, that is, *over such things as quicken the Spirit, or have bene given by the Holy Ghost; as namely the word of God, and the mystery of the kingdome of heaven:* as saith the glosse of Saint Ambrose upon that place of the Apottle to the Corinthians, *If we have some unto you spirituall things, is it a great thing if we shall reape your carnall things?* The reasons hereof are set downe in holy Scripture: That the kingdome of Iesu Christ, whose imitators the Clergie men are, is not of this world: That he conveyed himself away when he knew they wold have made him king: That when he was desired to be judge concerning the division of an inheritance, he said, he

he was not made Judge nor dividour betwixt them: That he commanded to give to *Cesar* the things which are *Cesars*: That himselfe would pay custome money, and cause Saint *Peter* to pay it likewise: That hee submitted himselfe to the jurisdiction of *Pilate*, who was Judge in *Indea* in stead of the Emperour, and declared that the power of judging him was given unto him from above: That he said to his Apostles, That Kings exercise Lordship over them, and they that exercise an authoritie upon them are called Benefactors; but ye shal not be so. The Apostles have said that Clergie men ought not to intermeddle with the affaires of this world; have commanded that every creature without exception should obey Princes and secular powers, and honour the Magistrate as ordain'd by God. Saint *Paul* appealed to *Cesar*, and acknowledged him for his Judge. Saint *Ambrose* expounding that passage of the Apostle to *Titus*, he admonisheth them to bee subject to Princes and Magistrates; that is (saith he) *Although thou have the spirituall Empire to command in that which is spirituall, yet notwithstanding he adviseth them to be subject to Kings, Princes, heads, and their Magistrates, because the Christian religion deprives no man of his right.*

4 Saint *Austin* in his commentarie upon the same place shewes how the Church doth not attempt any thing upon the lawes of secular Princes: For feare (saith he) lest the name of God bee blasphemed, as invading that which belongs unto another, and lest it should be thought that the doctrine of Christianity, as unjust, did preach any thing against the civill lawes. Saint *Chrysostome* saith, That in the Church we should betake our selves to well doing freely and willingly, not by constraint. Because (as hee addes) the lawes have not given us any such power as that wee should punish mens offences by authority of a judiciall sentence. Saint *Bernard* speaking to Pope *Eugenius* the fourth; Which power and dignity seemes greater to you, that of remitting sinnes, or dividing inheritance? Iow and terrestriall matters have Kings and Princes of the earth for their Judges. Why doe you incroach upon another mans bounds?

5 *Claudian Espensens* a Sorbon Doctor proves by many good authorities that Clergie men are subject to secular Princes, and owe all honour unto them as to their Lords. We will here set downe a piece of it. The Apostle (saith he) conforming himselfe to the patterne and answer of our Saviour, instructeth beleivers to be subject to the powers and priviledges of this world. Thomas Aquinas hath observed that such admonitions were necessary at that time; first to remove the error of the Jewes, who beleevd that they ought not to obey the commandments of men: In the second place that they might not make any disturbance in the Church. Which some troublesome fellows not observing, it is a wonder to see the hubbubs which they have raised on both sides, by the controversie which they have moved betwixt the Kingdome and the Priesthood. There went many hundred yeares after Saint Paul before this filthy Camarina; Chrysostome never suspecting that any such thing would come to passe, did simply expound those words [Every soule] Though (saith he) thou be an Apostle, an Evangelist, a Prophet, a Priest, or a Monke. And his interpretation was followed by Theodoret, Theophylact, Oecumenius, and other Greeke Authors. Gregorie the first, called the Great, did freely confesse that God had granted the Emperour the rule not onely over the men of warre, but also over Clergy men. And Bernard, who lived a long time after them, in his Epistle written to Henry Archbishop of Sens, makes this inference. [Every soule] and yours too. Who hath excepted you out of this generality? If any man goe about to except you, he goes about to deceive you. Beleeve not such counsels, &c.

6 See here a great manie testimonies all together which might happily have made a greater show, if every mans had beene brought in by it selfe: But my purpose being to applie all this to the present maladie, I thought it more convenient

The Clergy proved to be under the jurisdiction of Kings.

Luke 12.

Matth 22.

Matth. 17.

Iohn 19.

Luke 22.

2 Ad Timoth.

Rom. 13.

Act. 25.

Ambros. vid.

Marfil. pag. 150

Gloss. secund.

August. Marfil.

pag. 150.

Chrysost. lib. 1.

dialog. cap. 3.

Claudian Espen-

sens Theologus

parisiens. in

comment. in E-

pist. ad Titum

cap. 3 digres 10

Jurisdiction of
ver Clerks va-
rious by the
Imperiall law.

venient to make all these witnesses be produced by a partie not suspected, and one who very well understood them. Conclude wee from all these authorities, that the coactive jurisdiction and temporall power does not belong to Ecclesiastiques, but rather that it is a right Imperiall and Royall. But wee must expound this last point a little more plainly: Princes alone having this power and Secular jurisdiction, and all that depends upon it; sometimes they have used it themselves, sometimes they have granted the exercise thereof to their Officers and Magistrates, or even unto their Clergy men; yet without utterly devesting themselves of it; without making a pure cession from it, and absolute transport: they alwaies reserved unto themselves the Sovereignty as Masters and Lords of it: the power of transferring the exercise of that jurisdiction from one to another, either in part or in whole: to deprive whom they thought good, without doing them any wrong: to augment it in the person of their Officers, and abate it in their Ecclesiastiques; just as they have conferred part of it upon the latter to the prejudice of the former.

7 Wee have elsewhere treated of the judgements passed by Emperours and Princes, and also of the criminall causes of Ecclesiasticall persons. Here wee will speake only of the cognizance of civill causes. The Clergy were anciently under the jurisdiction of Secular Judges; in which there were afterwards many alterations. The Emperours *Valentinian* and *Valens*, in a certaine constitution directed to one of their Magistrates ordaine, that Clerks bee assessed to great dammages for their frivolous appeals. *Valens*, *Gratian*, and *Valentinian* give the jurisdiction of the civil causes of Clerks and their offences, civilly prosecuted to the Synods of the Diocese, reserving criminall causes to their Magistrates. *Theodosius* and *Valentinian* reserve Clerks to the audience of their Bishops. *Valentinian* the second, *Theodosius* the younger, and *Arcadius* declare that this is for Ecclesiasticall causes. *Martian* will have the Bishops to be judges over the Clerks in their Dioceses; and of their civill causes, if the plaintiff have recourse unto them: so that it was left to the libertie of him that entred the suit, whether he would make them Judges, or have recourse unto the Magistrate, as is specified in another law of the same Emperour. *Leo* and *Anthemius* give this jurisdiction over Clerkes and Monkes, to the Presidents of the Provinces within their circuit, and to the *Præfectus Prætorio* at *Constantinople*. And in another law they ordaine, that the Bishops, Clerks, Monkes, and all other Churchmen of what qualitie soever, shall answer before the Presidents of the Provinces, and come before them when they shall be summon'd and accused. *Justinian* in his seventie ninth novell Constitution, submits Monkes to the jurisdiction of Bishops: In the 83 constitution, hee decrees the like for Clerks, as well for matters civill as for Ecclesiastical crimes, reserving others to his officers. And furthermore in case the Bishops cannot, or will not take the cognizance of them, he referres them to his Magistrates. In the 123 constitution, hee prohibits the conventing of Bishops before his Magistrates in cases civill or criminall, without his Imperiall command. In other places the Emperours proceeding further, have given jurisdiction to Bishops, not only over Clerks, but also over Lay men. *Constantine* the Great was the first (whose law our Popes ascribe to *Theodosius*) having made a very favourable constitution in behalf of Bishops, whereby hee gives them the cognizance of all civill causes betwixt Lay men, upon the bare demand of one of the parties, albeit the other did not consent unto it. In such sort as the Magistrates are bound to desist from the cognizance of it, as soone as one of the parties shall require to bee dismissed and sent thither, whether it bee at the beginning, or middle, or end of the suit.

8 *Arcadius* and *Honorius* derogating from this law, will have it to be by the joynt consent of both parties, and that by way of arbitrement. The same Emperours,

L. 2. C. de episc. audient.

L. qui mos. C. Theod. de episc. Eccles. et Cler.

L. ult. C. Theod. eod.

L. ult. C. Theod. de episc. judic.

L. cum Clericis.

C. de episc. & Cler.

L. decernimus.

C. de episc. audi.

L. Omnes C. de episc. audient.

L. jubemus. S.

omnes. C. de episc. aud.

Justinian. Novell. 79.

Idem Novell. 83.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

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Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Idem Novell. 123. cap. 8.

Emperours, together with *Theodosius*, doe ordaine that there shall bee no appeal from this Episcopall judgement, and that their sentence shall bee put in execution by the Sergeants and Officers of the Iudges. This is the law which *Iustinian* would have to bee observed; I say those two last constitutions, for as for that of *Constantine*, he did not insert it in his books, but the other latter. Which *Gratian* hath confessed in his Decree. And whereas in the Code of *Theodosius*, the inscription of the title runnes thus, *De Episcopali iudicio*: *Iustinian* in stead of it hath put, *De Episcopali audientia*, to shew that it is not properly any jurisdiction which is bestowed upon them; but on the contrary, a friendly and arbitrary composition to abridge the processe.

Ancient lawes
doe not bind
present Princes.

L. episc. C. eod.

In §. hac si quis
post Can. omnes.
Caus. 11. q. 1.

9 After this time the Emperour *Charles* the Great, in his Capitularie, renewed the law of *Constantine*, and gave the same jurisdiction therein contained unto all Bishops, repeating the same law word for word. Which the Popes have not forgot in their Decree, where they have inserted the Constitution of *Constantine*, under the name of *Theodosius*, and that of *Charles* the Great; just as *Iustinian* did in his Books, the responses and commentaries of Lawyers, to give them the strength of a law. For as for them they thinke they are not subject to those of Christian Princes. But they have gone further yet, for by a most disrespectfull ingratitude, they have gone about to serve themselves of these lawes against those very Kings and Emperours which made them, to take upon them the jurisdiction over them themselves.

Carolus Magnus
in capitul. lib. 6.
cap. 28.
Can. quicumque
Can. Omnes.
Can. Volumus.
Caus. 11. q. 1.

10 *Innocent* the third served himselfe hereof against *Philip Augustus* King of *France*, hee would needs make himselfe judge betwixt this Prince and King *Iohn* of *England*, by virtue of these constitutions, whereof hee makes expresse mention. It is all one as if he had urged them against *Charles* the Great, considering that hee made this law both as Emperour and King of *France*, for hee submits the *French-men* to it in expresse termes. These lawes, whether of *Constantine* or of *Charles* the Great, should not now bee urged, neither against the Emperours nor the Kings of *France*, who did not make any law to tye them; nor against other Kings who doe not admit the law of the Empire, nor against their vassals and subjects. First, forasmuch as such lawes have beene abrogated by contrarie practice, bee it in *Germany*, *England*, *France*, or elsewhere. Secondly, forasmuch as the cause of them ceasing, there is no need to observe them. Now the cause or reason, which is fully expressed in those two lawes, is this; That the authoritie of sacred religion, invents and finds out many meanes of allaying suits, which the ties and formes of captious pleadings will not admit of. That the judgements of Bishops are true and uncorrupted. That this is the chinking of those malicious seeds of suits; to the intent that poore men intangled in the long and lasting snares of tedious actions, may see how to put a speedy end to those unjust demands which were proposed to them. Now wee have made it appeare in the second booke, when we treated of the reformation of the Head, that the Pope, his Decretals, the Court of *Rome*, and other Ecclesiasticall Courts, are now adayes become the source of iniquitie and injustice, and of all the shiftings and tricks that ever could be invented in matter of pleading, and that all Christendome graones miserably under them at this present. Why then should a man submit himselfe to their judgement? this were for escaping the ashes to throw himselfe in the fire. *Duarenus* speaking of these two laws, saith, That the conditions of the Bishops being changed, both these constitutions grew out of use, as it is credible. Thirdly, the Popes have rendered themselves unworthie of them, because they went about to retort them upon their authours, to urge them against those which are exempted from them; because they wold have made their liberality redound to their own damage, and have arrogated their power unto themselves, and usurped their lawes. Lastly, those who made those constitutions, have power to unmake

cap novit. de
iudiciis extra

Francisc.
Duarenus. l. 1.
de Sacro Eccl.
minist. c. 2.

Ordon. de l'an
1539. art. 1. 2.

them, to alter, or abolish them at their pleasure. To what purpose then are they urged against them? There needs be no more talke of them in *France*, for they have now beene a long time disused. Wee see no tracts of them in our Histories, nor in our ancient records. And besides wee have at this present some Ordinances cleane contrary to this, which forbid Clergy men all jurisdiction over lay men, unlesse it bee in spirituall cases, as wee have elsewhere expressed.

CHAP. II.

That a Councell hath no power in temporall matters.

The power of
Civill Lawes.



Or goods and other temporall matters, Saint *Austin* hath passed his sentence, by which hee hath submitted them entirely to the jurisdiction of Princes, although they be in the possession of Clergy men. By what law (saith he) doe you except the goods of the Church? by divine law or humane? The divine law we have in the Scriptures, and the humane in the lawes Imperiall. That which every man possesseth, doth he not possesse it by the humane law? Humane lawes are the lawes of the Emperours; for God hath dispensed humane lawes amongst mankind by the mediation of the Emperours and Kings of this world. And a little after. Take away the Imperiall law, and who dare say this possession is mine? This servant is mine? This house belongs to mee? If the Royall lawes have ordained that these things should bee holden and possessed by men, would you have us to conceale the law, that so you might enjoy them? And after some passages. Let those lawes be read where the Emperours have commanded expressely, that those who usurpe the name of Christians, unlesse they bee within the communion of the Catholique Church, cannot possesse any thing in the name of the Church. But (say you) what have we to doe with the Emperour? I have told you already that the question is here of the law humane, and the Apostle himselfe would have all men to bee subject to Kings, and Kings to be honoured. And hath said, Have Kings in reverence. Say not you then, What communion is there betwixt mee and the King? otherwise it will be said unto you, What communion is there betwixt you and your possessions? They are enjoyed by the constitutions of Kings. You say, What hath the King to doe with me? doe not then call those possessions yours, for as much as you have renounced humane lawes, by virtue whereof such possessions are enjoyed. This pregnant place is inserted into the Decree, all entire as I have related it; so as now it is a Papall law: which plainly teacheth us that Ecclesiastiques have no jurisdiction over the lands and possessions and other temporall goods which Churchmen are seized of: much lesse have they any over those which are in lay mens power; over which notwithstanding the Councell of *Trent* hath stretched their authoritie.

Can. hoc jure
dist. 8.

2 Gregory the thirteenth, it seemes, would have voided and rebated the force of this Canon, by that Item which he gives us, that the word *Church* is not at the beginning of the passage, because Saint *Austine* speakes there of heretiques, namely to the *Donatists*. Which is very true. But if he will inferre from thence, that Saint *Austine* would not have said as much of the goods of the Church, wee will deny his argument. These goods whereof hee speakes were

were the possessions of the Church, before the *Donatists* fell into their opinions. They were deprived of them by the Emperours because of their heresie. They were bestowed upon the Orthodox, as *Gregory* saith in the same place. See how the Prince and not the Church doth alwaies dispose of their goods. See how Saint *Anstine*, and all the Popes with him, confesse that it belongs to the Emperour to dispose of them, and not to the Church. For even that reason which he renders is generall. It agrees as well to the Church and Clergie as to any others. Besides, those which made the collections of ancient Canons, as *Anselme*, *Ivo*, and *Hildebert*, have inserted the word *Church* in that place; and *Gratian* after them, as *Gregory* confesseth, which the former Popes did authorize. The Emperour *Constantine* calls those of the *Novatians*, Churches, and will have them preserv'd unto them. The Emperours, *Gratian*, *Valentinian*, and *Theodosius*, call those of other Heretiques, Churches, and cast them out of them, that they may place orthodox Christians in them. *Arcadius* and *Honorius* made a like constitution. *Ivo* Bishop of *Chartres* proves it in his Epistles. For as much (saith he) as the guidance and government of temporall things is given unto Kings, and that they are called *Basilei*, that is, the Basis and foundation of the people, if at any time they abuse their power which is given them, they must not be too much exasperated by us; onely when they refuse to obey our admonitions, they must be let alone to the judgement of God. The Councell of *Trent* doth not use them so, but not content with delivering their bodies up to Satan as farre as lies in their power, it confiscates their goods, and deprives them of their inheritance.

Church-goods
disposed of by
Princes.

L. 2. C. Theod.
de heretic.
L. Episcop. C.
Tb. de fid Cath.
L. Cuncti. C. de
hereticis.

3 Pope *Nicholas*, howbeit in his Epistle sent to the Emperour *Michel* he breathe nothing but winde and smoke, having made a division with the Emperour very advantageous to himselfe, without forgetting any of the Ecclesiasticall and Papall pretentions, leaves him neverthelesse the guidance and government of temporall things for his share. When we come to the truth (saith he) neither the Emperour invades the rights of the Popedom, nor the Pope the name of the Emperour; forasmuch as *Iesus Christ* hath so distinguished the functions and offices of either power, by their proper acts and severall dignities, that Christian Emperours stand in neede of Popes for their eternall life, and Popes make use of the Imperiall lawes, yet onely in the course of temporall things. This Epistle is canonized in two places of *Gratians* Decree.

Can. quoniam.
dist. 10.
Et Can. Cum ad
verum, dist. 96.

4 So it is a cleare case that Clergy men were anciently very poore: That they lived in common, even at *Rome* for a long time: That they got their means and renewes by the bounty and liberality of secular Princes. The ancient Histories, yea even their owne bookes, doe witnesse as much. When the donation of *Constantine* and that of *Lewes* the Gentle shal be proved true, they will furnish us with a strong argument to convince the Popes that this was the hand from whence they receiv'd their meanes; and therefore these are the authors to whom they should acknowledge themselves beholding, and not ingratfully say (as they doe) That such meanes belonged to them; That the Emperours usurp'd them, and did no more but restore them.

Abbas V. per-
genfis in Chron.
sub ann. 1116.

5 The ancient Councils have done thus much respect and honour unto Princes, as to intreat them to remove the abuses, and correct mischiefes for as much as depended upon them, and as concerned their power; without proceeding to punishments and corrections, without undertaking to ordaine any thing in that kinde themselves, by thrusting their sicke into another mans harveest, as this of *Trent* doth.

Concil. Toler.
3. ca. 21. tom. 2.
conc pag. 866.
Concil. Toler.
4. tom. 3. Conc.
pag. 68.

6 The third Councell of *Toledo*, holden in the yeare 589, intreats *Reccared* King of *Spaine* to prohibit the usurpations of his Judges and Officers which troubled the Bishops servants, and other Ecclesiasticall persons by divers impositions. The fourth of *Toledo*, holden in the yeare 643 under King *Sise-*

rand,

Ecclesiasticall
jurisdiction de-
rived from
Princes.

Synod. Sueffon.
Tom 3. Concil.

Synod. Mogunt.
sub Rhaban. c.
17. tom 3. Conc.
pag. 836.

D Bernard.
lib. 2. de confid.
ad Eugen. Pap.

Ioannes de Pa-
ris in tractat.
de potest. regia
et Papal. in pro.

Idem Ioannes
de Paris cap. 8.

Marfilium in de-
fensor. pacis ca.
25. part. 2.

nand, doth indeed admonish those which have any controversies with potent men, and others which invade their rights, to come and make their complaint to the Councell; but this is to the end that as soone as the wrong done them is understood, a course may bee taken for it by the Officer Royall, as it is said in expresse termes.

7 The Councell of Soissons, having made certain Ecclesiasticall lawes wherein they speake of lay men too, concludes with this clause: *If any man chance to transgresse this Decree, and to breake or contemne the law which three and twenty Bishops, with other Ecclesiastiques and servants of God have enacted, with the consent of Prince Pepin, or the Counsell of the Peeres of France, let him be judged by the same Prince, or let him compound the matter with the Bishops or Judges so as is prescrib'd in the same law, every man according to his order.* The Councell of Mentz holden in the yeare 834 exhorteth Lewes the Gentle to restrain the oppression of poore people, but free borne, which was inflicted upon them by great and potent men, contrary to all justice. Our Councell of Trent in all these cases have proceeded by censures and excommunications, by confiscations of goods, and deprivations of Empires and Kingdomes.

8 Now Councils are so farre from having power to ordaine any thing concerning the temporals which belong to lay men, as they cannot so much as make lawes for the temporals of the Church. The reason is manifest, which is, because that Clergy men got their possessions by the bountie of Princes, at least for the most part; that before they had them they were under their Dominion and Empire; that for all this changing of their matter, they doe not lose that which belongs to them. *Christian Religion* (saith Saint Ambrose) *deprives no man of his right.* Saint Bernard, who is quoted and commended by all men in this case, speaking to Eugenius the third, saith, *What did the holy Apostle leave you? Such as I have I give you* (saith he.) *And what's that? one thing I know, that it is neither silver nor gold; for he himselfe sayes, Silver nor gold have I none. If you chance to have any, use it; not according to your appetite, but for a time. And a little after. Grant that ye, arrogate these things unto your selfe by some other title, you can never doe it by the Apostolique right, for he could not give what he never had. What hee had he gave, to wit the charge and care over Churches. Did he leave the Dominion too? heare himselfe speake, Not bearing rule* (saith he) *in the Church; but being brought under the forme of a flocke.*

9 Frier John of Paris, a Doctour in Divinitie of the order of Predicants, who writ about the yeare 1280, in his tract Of the Royall and Papall power. *I am of opinion* (saith he) *that truth it selfe hath made a Medium here, namely, that it is not utterly impossible that Clergie men have dominion and jurisdiction in temporall matters, but yet it belongs not unto them by reason of their profession and as Christs Vicars and the Apostles successors; but is convenient for them to have it by the grant and permission of Princes, if so be they have bestowed it upon them out of devotion, or if they have got it by other meanes.* And in the eight Chapter he sets downe this conclusion. *Whence it appeares, that seeing Christ, as man, had no power nor jurisdiction in temporall matters, the Priest, (be what he will) hath not received any power over them from Christ; in as much as he did not give unto them what he had not in himselfe.*

10 By reason of this jurisdiction and power which Princes have over Ecclesiasticall goods, they may impose taxes, subsidies, tenths, and other charges upon them. *Marfilium de Padua* saith, *The Bishops of Rome would enjoy temporall matters immoderately, and without too much right; and yet notwithstanding they will not be subject to the lawes and edicts of Princes and humane Legislators, contrary to the doctrine and example of Christ and his Apostles. Howbeit for things which belong not unto them, when they have them in their power, they should rather relinquish them than contest for them.* He addes further. *The Bi-*
shops

shops of Rome, as also all the rest, having but small regard to this, if they finde themselves grieved at any time by the Roman Emperors in tenths and subsidies, and other temporall charges for the maintenance of souldiers, then when necessity forceth them to it, in stead of acknowledging the courtesies they have received in these temporall matters, which these Princes of Rome have liberally imparted unto them, puffed up with pride and ignorance of their owne condition, more ingratefull than the most ingratefull that ever were, out of an unbridled presumption they fall into horrible blasphemies and cursings, as well against the Princes, as against such Christians as are subject to them. The same author in another passage: We must not be ignorant (saith he) that the humane law-giver, or he which rules by his authority, may lawfully impose any tasks and collections upon the temporals of Ecclesiasticall men, principally upon their lands and immoveables which we call benefices, &c. Saint Ambrose in one of his Epistles saith, If the Emperour demand his tribute, we doe not deny him it. The revenues of the Church pay tribute. Hugo de Sancto Victore speakes expressly of it in his tract of the Sacraments. Let the Church know (saith he) that such possessions cannot be so farre alienated from the Royall power, as that if reason and necessity do require it, the same power needs not protect them; or that those possessions should not relieve him in time of necessity. Marsilius againe in another place: 'But if the supreme Law-givers or 'Commanders stand in need of these temporals, they may in case of necessity 'make use of all that remaines over and above what is bestowed in the maintenance of the Minilters of the Church and of the poore; and may by their own 'authoritie lawfully seise upon it, according to the divine law; notwithstanding any contradiction of the Priests Minilters: and that not onely the tenths, 'but even the fourths and thirds, &c. Aeneas Sylvius, in his fift booke Of the beginning and authoritie of the Empire, saith, That the possessions of the Church owe tribute to the Empire. Which he proves by the testimonie of Saint Ambrose, and many others, out of holy Writ. Chassanew who was President of the Parliament of Aix in Provence, saith, 'That Prelates are subject to Kings 'for their temporall meanes, though they be not feodall; that they are bound 'to obey their Ordinances and Constitutions for as much as concernes the said 'goods: that such temporall meanes of Clergy men, even those which are infeodated, are lyable to the payment of new tasks, in case Kings should have a 'minde to impose any for the defence of their kingdomes.

¶ But for this matter we need not seeke any other testimonies than those which are extant in the Popes owne bookes. That place of Saint Ambrose, which was formerly quoted, hath beene canoniz'd in Gratians Decree. 'If the Emperour demand tribute, we doe not deny him it. The revenues of the Church pay tribute. If the Emperour desire to have the meanes, he hath power to take them to himselfe. In another Canon it is said, 'It is a great and spirituall lesson by which we learne that Christians are subject to secular powers; for feare lest any body should thinke that the Ordinance of an earthly King may be violated. For if the Sonne of God payed tribute, who art thou that art so great as to think thy selfe exempted? One Pope Urban said, 'That the tribute was found in the fishes mouth as Peter was a fishing, because the Church payes tribute of things externall which lye open to every mans view.

¶ It is true that Gratian, after he hath set downe these Canons, plants others by way of battery against them to beat them downe, such as are approved by Popes, in such sort that they propounce themselves exempt from all subsidies and tributes, and also all others of their order. Clergy men have exemptions indeed, and those very faire ones, both for their persons and their goods: they have priviledges which are both honourable and profitable. I confesse they have. But they are very ingratefull if they doe not therein acknowledge

Princes may impose tribute upon Clerks.

Marsilius part. 2. cap. 17.

Ambros in Epist. de tradend. Basilic. Hugo de Sancto Victore in tract. de Sacrament. Marsit part. 2. cap. 21.

Aeneas Sylvium de orat. & authorit. Imper. cap. 6. Barthol. Chassanew in 4. part. Catalogi.

Can. Si tributum. 11. q. 1.

Can. Magnum. 11. q. 1.

Can. tributum. 23. q. 8.

Clergie how
far exempted
from taxes.

*L. de iis Clericis.
C. de Episcop. et
Cleric.
L. placet. C. de
sacro sanct. Eccl.
L. ad instructio-
nes. C. eod.
L. ut et. L. omnia
Ecclesiasticum. C.
Th. de Episcop.
Eccles. et Cleric.
L. jubemus. C.
eodem.
L. neminem. C.
eodem.
L. jubemus. C.
eodem.
L. 1. C. eod.
Cap. 1. de immu-
nitat. Eccles.
in 6.
V. Ioan. Ferrant
in tract. de ju-
rib. & privi.
reg. Franc. c. 17
Lancelot. Con-
rad in templo
omn. iudic. lib.
1. cap. 2. §. 3.
num. 10.*

*Cap. 1. de immu-
nit. Eccles. in 6.*

*V. notas ad d. c.
1. de immunit.
Eccles. in 6.*

*Vid. Eclogam
Bullarum &
motuum pro-
priarum pag.
316.*

*Cap. Clericis
laicos. de im-
munit. Eccles.
in 6.*

knowledge the liberalitie of Kings and Emperours. These are the markes of their bountie.

13 It cannot bee inferred from all this tho, that there is any release from the power and soveraigntie which belongs unto them, nor from those dues which they were wont to receive, save onely so farre as they are pleased to remit them. The Emperour *Constantinus* does ordaine that the Clerkes of the Provinces shall pay the charges due to the Exchequer for their possessions. The Emperours *Honorius* and *Theodosius* grant an immunitie to Churches from fordid paymients, but not from others: and they reserve to themselves the power of laying impositions upon them in case of necessitie. The same Emperours declare in another place, that they doe not exempt them from such taxes as shall be assessed for the repairing of bridges and high waies. *Constantinus* and *Constans* had formerly granted the same immunitie to Ecclesiasticall persons, their wives and children; to wit, from sordid payments, but not from others. The Emperours *Theodosius* and *Valentinian* declare the vassals and tenants of the Church lyable to the same services that others are. They declare likewise that the possessions of the Church must pay tribute. These are the same Emperours that prohibited the alienation of Ecclesiasticall goods: that gave Councels power to receive revenues by legacie from dying men.

14 If these were anciently the Imperiall rights, it would be known at what game they were lost. The Popes have made lawes for the confirming, yea enlarging of these immunities. Councels have likewise interposed themselves in the same businesse, both they and these in such sort as they have forgot their benefactors: and not remembring that these exemptions are the courtesies of these very Kings and Emperours, whom they forbid to lay any imposition upon such goods without their leave. Yet our Kings of *France* are alwaies excepted by the testimonie of our Doctours, who thinke that to bee his speciall priviledge, which is indeed the common right of all Princes. Though in very deed it is made speciall by reason of the usurpation of Popes, who have got their ends in others, the *French* onely excepted. And yet they are not out of hopes of them too. For amongst their Decretals there is one of *Alexander* the fourth which expressly forbids the *French* 'To impose any taxes, collections, or exactions upon Churches or Ecclesiasticall persons, or to require them of them for their houses, lands, or other possessions whatsoever, heretofore got or purchased, or hereafter to bee got or purchased by the said Churches or persons Ecclesiasticall. This Decretall, together with all the rest, is approved by this Councell of *Trent*: yea (which is worth the observing) *Gregory* the thirteenth in his late censure of the Canon Law hath made this addition to the said Decretall. *Looke* (saith he) *the Councell of Trent at the twentieth chapter of the twenty fifth Session, where the priviledges and immunities of Churches and Ecclesiasticall persons are renewed and confirmed.* So that we must talke no more of this priviledge hereafter, if our Councell be received. And that no man make any further doubt hereof, let us heare how this and that other *Gregory* the fourteenth would make men beleieve it in their Bulls, *De cana Domini*, given forth by them afterwards to be thundered out in this kingdome. 'We excommunicate and anathematize those which impose any collections, rents, taxes, payments, or other charges upon Clerks, Prelates, or other Ecclesiasticall persons: or upon the goods of Churches, Monasteries, or other Ecclesiasticall benefices: or upon the fruits, rents, and revenues thereof, without speciall and expresse licence from the Pope of *Rome*.

15 These Popes did no more but resume the errors of *Boniface* the eighth (so well liked by his successors that they made lawes of them) for by his Decretall hee excommunicates all lay men, yea by name all 'Emperours, Kings, Princes, Dukes, Counts, Barons, and Potentates that shall receive any collections,

ons, taxes, tenths, twentieth or hundred part of Ecclesiasticall goods and re-
venues, or other quantitie, part, or quotitie of them, by the name of reliefe,
loane, aid, subsidie, or other title whatsoever; as also all Ecclesiasticall persons
which shall pay them without leave from the holy See.

Paying of tithes
and subsidies
prohibited by
Popes.

16 *Bennet* the eleventh, his successour, after he had accorded all things with
Philip the Faire, in courtesie to him made a restraint of that Decretall, ordain-
ing that it should not take place *Inter volentes*, wherein he thought he gratifi-
ed him much. Hearke how one speakes of him that was a writer of the lives of
Popes. 'Pope *Benedict* appeased the strife and dissensions that were begunne
' betwixt *Philip* King of *France* and Pope *Boniface*: and restored unto the
' same King the priviledges and indulgences of the See Apostolique, which had
' been taken from him by *Boniface* his predecessor. Besides, he set out a certain
' Constitution at *Perusia* in favour of the same King and his subjects, which
' begins, *Quod olim*: whereby he restraines the Constitution of his predeces-
' sor *Boniface*, which begins, *Clericis laicos*: ordaining that the punishment
' exprest in *Boniface* his Constitution, shall not take place neither in those that
' pay, nor in those that receive such paiments as are freely & willingly tendred.
This constitution is among the Extravagants at this present; but so as our Popes
hold it for apocryphall, abrogated, and of no force, witnesse the foresaid Buls
De cena Domini, sent into *France* to be thundred out there, which have these
words: *We excommunicate and anathematize all those that receive the said col-*
lections, taxes, tenths, &c. even of such as give and grant them willingly.

Cap. *Quod oli-*
de immunit.
Eccles. lib. 3.
Extra.
Aut imposita
etiam a sponte
dantibus &
concedentibus
recipiunt.
Ioannes Petrus
de Ferraria in
forma libelli
pro haredit. vel
singul. re in
verb. omnis com-
muni pag. 508.

17 One of our Practitioners hath so farre forth acknowledged the power
of Emperours and Kings over the temporals of the Church, that he hath advi-
sed them to discharge the Pope and other Ecclesiastiques of that care and trou-
ble, which the too great abundance begets in them. 'It will come to passe
' ere long (saith he) that all lay mens goods will prove to be Clergie mens in-
' heritance, unlesse some good Emperour take an order with it, by revoking
' the donation of *Constantine*, and making a law totally to reduce the state of al
' Clerks to the state and condition of Friers Mendicants; and unlesse the Pope
' and Cardinals also bee reduced to the life of Christ and his Apostles upon
' earth, whose Vicar Genetal he is, and therefore ought to follow his example.
And in another place. 'Amongst the priviledges of the Church, this is one,
' That the goods of such as turne religious be applyed to their Monasteries. By
' meanes of which priviledge an infinite company of Monasteries have bene
' founded and multiplyed in all parts of the world. That which was anciently
' done out of devotion, is now practised out of avarice, and to exercise oppres-
' sion, in such sort as they have already quite undone the laity. So that it may
' well be said that such places either already erected, or hereafter to be erected,
' are nothing else but nets set to catch lay mens goods in. O that a good Em-
' perour would arise therefore, that all the world might say, Let peace be made
' by thy virtue, and let plentifulnesse be within thy Towers!

Idem de Ferraria in form. li-
bel quo agit ex
substitut. in
verb. ex suo
corpore.

CHAP. III.

That Kings and Princes ought not easily to bee excommunicated : and of the priviledges of the Kings of France, and their Officers.

Excommuni-
cations abused
against Princes.



Owbeit Ecclesiasticall persons, as Ecclesiasticall, have no power over temporall matters, but only Kings and Princes, and those upon whom they derive their power; yet so it is that in these latter daies they have taken upon them a jurisdiction in such matters, applying even excommunications to that purpose. For by meanes of them they have disposed of Kingdomes and Empires, Dutchies and Principalities, Cities, Patrimonies, and other such like things. So our Councell useth them against duells, against Combatants and their Seconds: depriving them of their Cities and Places where such Duells shall bee fought, and these of their inheritance: and that by virtue of an Excommunication which shall bee thundred out against them. Besides what we have spoke already concerning the disposall of temporall matters, wee have elsewhere proved that it is an unjust and unlawfull thing to extend excommunications to mens goods, to deprive such men of them to whom of right they appertaine. We shall only say in this place that there ought to be very weighty reasons for proceeding to the excommunication of Kings and Princes: yea there are some which thinke they are totally exempted from it.

V. Ep. Leodiens.
To. 2. Conc. in
edition. Colon.
p. 809.

1 Ivo Bishop of *Chartres* saith they ought to be borne with in their faults, not to bee exasperated in case they will not doe any thing upon faire admonitions. Wee have set downe the place before. The Clergie of *Liege* in their epistle to Pope *Paschal* the second, say the very same; *If any man search the old and new Testament, and the things which have beene acted there, hee shall evidently find that Kings and Emperours can no way bee excommunicated, or at least very hardly: according to the Etymology of their name, and the definition of excommunication. And the question was never yet determined. They may indeed bee admonished, rebuked, reprovved by respectfull and discreet persons, in as much as Christ the King of Kings hath reserved unto himselfe the condemnation or absolution of those whom he hath left to supplie his place upon earth.*

Epist. Hincmari
Rhemensis E.
pisc. ad Adrian.
Pap.

3 This Councell excommunicates them upon very sleight occasions, as namely for using their authoritie in contracting of mariages, to the advantage of some Gentlemen or Officers of their Court; for giving way to a Duell, and the like. It is requisite to heare what answer a Synod of *Rhemes* made to an Archbishop of the same Citie hereupon, whom Pope *Adrian* the second had commanded by his letters to abstaine from communicating with *Charles* the Bald, Emperour and King of *France*, which he certified the assembly of. *They said, and doe say, with reproaches touching upon my meannesse, who have alwaies strived to the utmost of my abilitie and knowledge, to promote the priviledges of the See Apostolique, that such a command as this, was never given out from that See to any of my Predecessours, even in those times when (as every man knowes) there were warres and seditions betwixt confederate Kings living under the same Sacraments,*

Sacraments, betwixt the father and the children; yea even betwixt brethren. And that wee never read that the Popes of the See Apostolique, nor other Bishops of great authoritie and holynesse did ever withdraw themselves from the presence, or refused to salute or conferre with hereticall or schismaticall Emperours, Tyrants, or Kings, how bad soever they were: as Constantius the Arrian, Iulian the Apostat, Maximus the tyrant, when occasion, place, and the cause required it, &c. And they say that the scripture of this age holds, that every Kingdome of this world is got by armes, and enlarged by victories, and cannot be purchased by excommunications from the Popes, or other Bishops: and they urge that holy Scripture saith, that Kingdomes are from the Lord; by whom Kings reigne; and that by the ministerie of men and Angels he confers them upon whom hee pleases. See here are things which without all compare deserve rather to be struck with an Ecclesiastical thunderclap, than the giving way unto a Duell or interposing their authoritie in a matter of marriage.

The King of France his priviledge.

4 Now, whatsoever others bee, our Kings are exempted from such thunders, so as neither the Bishops of this Kingdome, nor strangers, no nor the Pope himselfe have any power over them in this regard. Wee have hereof divers testimonies: our French men do avouch it in an article which was drawne by them in behalfe of King *Lotharius*, against Pope *Nicholas* the first, who would have excommunicated him for his marriage with *Waldrada*. As hee cannot bee excommunicated (say they, speaking of the King) by his Bishops, whatsoever his fault bee, so cannot he bee judged by other Bishops.

5 *Vincent*, in his allegations, after he hath set downe the good deeds of the Kings of France towards the Church, saith, *This is the cause why the Kings of France, cannot bee excommunicated, by reason of their priviledge, else their labour should bee fruitlesse. Likewise their souldiers and their men of warre, and their Captaines, inasmuch as they cannot offend by obeying them. These last words must bee understood of an excommunication thundred out against the men of warre, for this reason, because they fight for their Prince.*

6 *Lancelot Conrade*, a Lawyer of *Millain*, subject to the King of *Spaine*, saith as much in expresse termes; *The King of France pretends to have this priviledge, that hee cannot bee excommunicated neither by the Canons, nor by men. As the Doctours collect in the division of the chapter, Vbi Periculum in principio de elect. in 6. When the Parliament of Paris gave their opinion, and all the Chambers met together about receiving the Cardinall d'Amboise, and the qualifications that should bee put to his Faculties, (which was upon the eleventh of December 1501). The lawes of the Land, and the liberties of the Gallicane Church were represented at large, amongst which this was one, That the King of France cannot bee excommunicated, that his Kingdome cannot bee put in interdict, as is collected out of the ancient Registers.*

*Lanc. Conradus
Laudensis in
templo omnium
judic. lib. 1. c. 2.
§. 3. num. 132.*

7 Yet notwithstanding alwaies, as oft as the Popes have gone about to attempt any such excommunications, whether by their owne proper authority, or joyntly with Councels, they have found strong resistance: and the French have got this commendation, that they never abandoned their Princes in such conflicts. The Histories thereof are knowne to all men; and they have been so canvased in divers writings set out during our late troubles, that it will bee fitting to overpasse them, that wee renew not the memorie of our former miseries. We will only say that some Popes have in good sincerity acknowledged this right and prerogative of our Kings: yea, which is more, they have confirmed it by their Bulls; declaring thereby that the King of France cannot bee excommunicated, nor his Kingdome interdicted; and amongst others, *Martin* the third and fourth; *Gregory* the eighth, ninth, tenth, and eleventh; *Alexander* the fourth; *Clement* the fourth and fifth; *Nicholas* the third; *Vrbane* the fifth; and *Boniface* the twelfth, whose Bulls are yet preserved in the

Kings of
France not
excommuni-
cable.

treasurie of the Kings Charters, as divers testifie.

8 Pope *Benedict* th'eleventh, partly (as it is probable) upon this occasion, revoked the excommunication which was denounced by *Boniface* the eighth his predecessour, against *Philip* the Faire, of his own meere motion, and without being desired unto it by any man, (as *Walsingham* witnesseth) He absolved (saith he) *Philip the Faire King of France*, from the sentence of excommunication given out against him by his predecessour, without being desired to it. Wee read the Bull thereof to thisday in *Mr. Nicholas Gille* in his *Annals of Aquitain*. Amongst the testimonies of Popes, wee will put that of *Sylvester* the second, for the judgement which he passed before he was preferred to the Popedome, and the excommunication which the Pope that then was threatened against the King, and some Prelates of this Kingdome. See here the place taken out of one of his Epistles which hee writ to the Arch-Bishop of *Sens*:

9 I say confidently and boldly, that if a Bishop of Rome hath offended against his brother, and will not give care to the admonitions which should bee divers times given by the Church, I say that same Bishop of Rome by the commandement of God, must bee accounted as an Heathen and a Publicane: For by how much the degree is higher, by so much the fall is greater. But if hee account us unworthie of his communion, forasmuch as none of us will consent with him in that which is against the Gospel, hee cannot therefore separate us from the communion of Christ. And presently after; Wee should not therefore give this advantage to our ill-willers, as to make the Priesthood, which is but one in all places, as the Catholique Church is but one, seeme to bee subject to one man only; in such sort, that if hee be corrupted by money, or favour, or fear, or ignorance, no man can bee Priest but hee that shall be commended unto him by such virtues as these.

10 Whence wee collect, that the Popes have no more power over our Kings, in matter of excommunications, than other Bishops, whether of their owne Kingdome, or strangers. The Courts of Parliament of this Realme (and especially that of *Paris*) have alwaies stood out against such excommunications, and have declared them to bee frivolous, nullities, and abusive: yea and have proceeded with rigour and severitie against the bearers of them. The Arrests given out against the Bulls of *Benedict* the thirteenth, the two *Gregories* the thirteenth and fourteenth, are sufficient witnesses hereof. Now it is not only true that our Kings cannot be excommunicated: but, which is more, they may absolve such of their subjects as are excluded from the Communion of the Church: yea they are accounted to restore them to their former state, by the meere admitting of them to their table, or into their company. This is a thing which wee finde upon record in the Capitularie of *Charles* the Great, in these words; If the Royall power doe receive any delinquents into favour, or admit them to his table, they shall be likewise received into the assemblies of the people and Clergy in Ecclesiasticall communion; to the intent that the ministers of God may not reject what the pietie of the Prince doth admit. The Prelats of France have observed this law at other times. Ivo Bishop of *Chartres* saith, hee practised it towards one *Geruase*, and hee sets downe the words of this Ordinance. In another epistle he gives us to wit, that our Kings have this priviledge, not only for other men, but for themselves too: Kings (saith hee) should not be asperated by us: but in case they will not rest quiet for all our admonitions, they must be left to the divine judgement. Hence it is that wee read in the Capitularie Royall, concluded upon by the authoritie of the Bishops: If the Royall power, the

Now this priviledge that they cannot bee excommunicated, is no new thing. *Gregory* the fourth in one of his Decretals, confirms this priviledge granted

Ivo ep. 123.

Ivo ep. 105.

granted to the Kings, Queens, and their children, that they cannot be excommunicate, nor their lands interdicted. Which *John Andreas* extends to the brethren of Kings, so they be children of Kings too; but not to such as are only brethren and no more. For example; If (saith he) *one that is no Kings sonne should succeed in a Kingdome, where such a proviso is made; as suppose in the Kingdome of France at this present, the Kings brethren shall not enjoy this priviledge. But when, according to the ordinarie custome, the eldest succeeds in the Kingdome, and hath brethren by the fathers side, they enjoy this privildge, forasmuch as they are children of the same head.* This instance in France shewes that our Kings are of the number of those that have this priviledge, that they cannot bee excommunicated, nor interdicted *à quocunque*, as the Decretall hath it, that is, *By any man whatsoever*: Which may be understood as well of the Pope himselfe as of others. 'Tis true the glosse excepts him, as also his Legat *à latere*: but that doth not take place against our Kings, who by reason of their great deservings, and good deeds to the Church, are exempt from all such thunderclaps.

Kings and their children no excommunicable.

CHAP. IV.

That the Councel useth commanding termes to Kings and Emperours; and makes them executioners of the Bishops Decrees. Of the honour which was anciently done unto them by Clergymen.



Our Councell is not content with clipping the rights, authorities and prerogatives of Kings, Princes, and other Lords, to enhance that of *Rome*; but further, it tramples them under foot: makes them but officers and ministers to Bishops, by commanding them to execute what these ordaine. 'The holy Councell (say they) doth further exhort all Kings, Princes, Common-wealths, and Magistrates, and by virtue of holy Obedience doth command them, to interpose their aid and authoritie in behalfe of the said Bishops, Abbats, Generals, and others which have the charge and superintendence for the putting of the said reformation in execution, every time, and as oft as they shall be thereunto required: to the intent that they may without any impediment put in execution the things aforesaid, to the glory of almighty God.

Had there beene no more but a bare exhortation it had beene well enough: but this command sounds somewhat harsh, however it be mitigated with the sweet appearance of a holy obedience: for 'tis well knowne in what fashion they serve themselves of these faire words. This *Mandamus* is extraordinary, and was never vented but from the stomachs of ambitious Popes or their Conventicles. Let a man but reade the Acts of ancient Councils Generall or Provinciaall, he shall finde nothing but humble petitions, sweet exhortations, prayers and blessings for as much as concernes Emperours, Kings, and Princes; commands to them were not heard of then. They are the men who alone have the fountain and arsenall in their owne hands, both for things

Priests preferd
before Princes
by this Coun-
cell.

temporall and spirituell; who impart them to whom they thinke good. Ecclesiastiques have nothing to do but by way of petition: they have neither command nor Empire, unlesse they cozen the Monarchs of the earth of it: they are Physicians of soules, subject to secular powers, having no weapons at all but censures and anathema's against such as are perverse and irregular. This *Man-damus* therefore is unjust both in regard of those which give it, and those to whom it is given: so it is too in regard of the subject and reason for which it was made: in as much as by virtue hereof Princes and Monarchs must be bound to obey the Clergie of their Empires and Kingdomes, and that even to the meanest of them: They must be bound to assist them with a strong hand, to put their ordinances in execution every time, and as oft as they shall bee required thereunto: and in case they faile herein there will not want thunderbolts to deprive them of their Empires and Dominions.

Council. Trid.
Sess. 25. cap. 17

3 In another Decree they sharply rebuke such Bishops as debase themselves too much to Kings and Princes, and give place and submit to them in point of honour. 'Tis true, they speake at first of pettie Kings and other Lords; but the end of the Decree relates also to such as are of greater ranke; where it is said by way of command to Bishops, *That as well within the Church as without, having before their eyes their place and order, they should ever remember that they are Fathers and Pastours. And as for Princes and all others, that they doe fatherly honour and due reverence to them.*

Cap. Solita. ex-
tra. de majorib.
& obedient.

4 In the same Decree they renew and confirme all the former Decrees and Decretals which speake of the honour of Bishops, and put them in course: which are noted in the margent by the Popes expositors: and amongst others the Epistle of *Innocent* the third writ to the Emperour of *Constantinople*, whom some thinke to be *Baldwin* or his brother *Henry*, who were Frenchmen, towards the end whereof it is said, 'If the Imperiall greatnesse would wisely consider these things, it would not suffer the Patriarch of *Constantinople*, who is in truth a great and honourable member of the Church, to sit over against his footstool, and upon the left hand: considering that other Kings and Princes doe with reverence stand up, as they should doe, before their Archbishops and Bishops, and allow them a venerable place next after themselves. *Gregory* the thirteenth in his new purgation of the Decretalls hath put this note upon it, *See here (saith he) the Councell of Trent, in the twenty fifth Session, and seventeenth Chapter of reformation.* But let us here adde the rest of the places in the margent, that wee may better know what honour this Councell would have Kings and Princes doe to Bishops.

5 The Canon *Valentinianus* contains the resolution which the Emperour *Valentinian* made concerning the election of Saint *Ambrose*, and the exhortation which he made to the Bishops then present when the question was concerning proceeding to the election, 'Set such a one (saith he) in the Pontifical See, as we that governe the Empire may sincerely put our heads under his hands, and receive his admonitions (inasmuch as we shall offend, as men) like medicines from a necessarie Physician. See here words that beseeeme a Christian Emperour indeed, who gives Clergie men that reverence which is due unto them as Physicians of soules. But the Glossatour, conforming himselfe to the ambition of *Rome*, referres all this to worldly honours and vanities. *See here an argument (saith he) to prove that the Emperour is inferiour to a Bishop, and that he may bee excommunicated by a Bishop.* 'Tis true that on the other side hee seemes to favour the Emperour, by giving him an office in the Church, and making him Archdeacon: for expounding the word *Ordinem*, hee saith, 'From this word some have affirmed that the Emperour should have the Order of Subdeacon in the Church: but it is not true, because hee hath a militarie character; yet howsoever hee performes the office of

* of Subdeacon when hee serves the Bishop. O bravely thrust!

6 *Gregory* the seventh, in an Epistle which he sent to the Bishop of *Mentz* speakes yet in a more loftie style for point of honour. 'Who makes question (saith he) but the Priests of Christ are reputed for the Fathers and Masters of Kings and Princes, and all the faithfull? Is it not knowne that 'tis a miserable madnesse if the sonne should goe about to dominere over his father, or the scholler over his master? and by some unlawfull obligations to bring him under his power by whom he may be bound and unbound, not only upon earth but in heaven also? The glosse makes an exception: 'Yet if the father should grow franticke, the son should be made Tutour over him, to governe him. He that shall reade Cardinall *Benno* upon the life of this Pope, and others that have made mention of him, will finde that this is not much beside the cushion.

Popes (by their account) how much greater than Emperors.

Can. *Quis dubitet*, dist. 96.

7 Pope *John* the eighth saith, 'That tis Gods will the disposall of the Church should belong to the Clergie, and not to secular Princes: who if they be of the number of the faithful his will is they should be subject to the Clergie. He addes yet further: 'That Christian Emperours ought to submit their executions to Ecclesiasticall Prelates, and not to preferre them. Pope *Gelasius* writ to the Orientall Bishops, 'That Christian Princes were wont to obey the Decrees of the Church, and not preferre their owne power. To submit their owne heads to Bishops, not sit as Judges of theirs. These are the Glosses of the Councell of *Trent* upon the forecited Decree: all taken out of *Gratians* Decree; all hammered out and whetted in the Popes forge.

Can. *Si Imperator*, dist. 96.

8 They forgot that Decretall of *Clement* the third, *Saint Peter* commanded (saith he) that all Princes of the earth, and all other men besides, should obey Bishops. The Glossatour infers: 'Ergo, The Princes of the earth are inferiour to Bishops. Which is true. But if the King have many Bishopricks within his Realme, before which of them shall he treat of his spirituall cases? Hee shall treat of them before that Bishop in whose territorie hee makes his principall residence. Which glosse is approved and followed by the Canonists that comment upon that place. And wee need not wonder if they would have the King to repaire to the Bishop to treat of spirituall matters. For there are some of them that left it in writing, that if the Bishops bee out of the fiefs or mannors which they hold, they are not bound to call Kings by their names, nor to acknowledge them for Kings, not so much as for the goods temporall of the Church. It is a Pope that pronounced this sentence, by name *Innocent* the third.

Cap. *Omnia extra de major. et obediens*, pag.

423.

9 We forgot to tell how our Canonists are entered upon a profound piece of Philosophie, to know exactly how much the Sun is bigger than the Moone: for without the knowledge of this point they cannot resolve how much the Papall dignitie surpasseth the Imperiall, inasmuch as this is the ell with which they must be measured; the Pope being by *Innocent* the third compared to the Sunne, and the Emperour to the Moone. The Glosse upon that Chapter determines the case thus: 'Wherefore seeing the Earth is seven times bigger than the Moone, and the Sunne eight times bigger than the Earth, it followes that the Papall dignitie is fortie seven times bigger than the Royall. *John Andreas* observes there is a fault in this glosse. 'In other copies (saith he) it is ten times foure; in others, fortie times: but neither this nor that can stand with the supputation of the Glosse. For if the Earth be seven times greater than the Moone, and the Sunne eight times greater than the Earth, the Sunne must then be eight times seven times greater than the Moone, and therefore it is fifty six times greater. For eight times seven make fifty six. Pope *Gregory* in his censure upon this place, takes notice of this diversity of reading, which is more to his owne advantage. In other copies (saith he) it is fifty times seven times.

Humilitie of
ancient Popes.

times. But for the quantity of the Sunne and Moone and Earth, and how much greater one of them is than another, see Ptolomie in his fift Booke and sixt Chapter. It was requisite to observe that ; for by this meanes the Popes greatnesse is tenne times greater. But see here another addition yet, which helpes well to augment the score. Here Laurence (saith the addition) cites the saying of Ptolomy; it is evident that the greatnesse of the Sunne containes the greatnesse of the Earth one hundred forty seven times and two halfe parts more. It is also well knowne to every body that the greatnesse of the Sunne containes the greatnesse of the Moon seven thousand seven hundred forty foure times, and one halfe more. See here how they write of this point, it being to be feared they will never disintangle themselves out of these doubts but by the determination of a Councell ; and further it will be necessary that they imploy some surveyour in the busines. And if in the meane time the Sunne should happen to decrease, or the Moone to encrease, there would be a great many amaz'd with it.

10 Though this be but a sport, yet no man of judgement but will bee more readie to weepe than to laugh at it. For this vanitie hath made men renounce the simplicitie of Christianitie, to runne after the world, and glut themselves with vanities. This Ecclesiasticall ambition begunne to grow up as high as *O-rigen's* times. We are in such a taking (saith hee, speaking of the Prelates of his times) that we seeme to outvie the pride of the Princes of this world; either because we doe not understand, or doe not respect the commandment of Christ : and after the fashion of Kings wee desire to have weapons of terrour to march before us. Saint *Chrysostome* saith likewise, That the Princes of this world are for ruling over such as are inferiour to them, for bringing them into subjection, and spoiling them (when they deserve it) and for serving their turnes of them, to their commodity and for their honour, even to death. But the Prelates of the Church are ordained to serve such as are inferiour to them, and to minister unto them all that they have received from Christ, &c. It is not then either just or profitable to desire primacy in the Church. For what wise man is there that, with his good wil, would submit himself to such a servitude, and undergoe such a danger, as to bee bound to give account for all the Church, unlesse perhaps some that is not afraid of Gods judgement, abusing his Ecclesiasticall primacy in a worldly way, by converting it into a secular power? And what is this else but turning the Ecclesiasticall dignity into a secular, to dispute so much about honour and place, not against other Ecclesiastiques (which were more tolerable) but against the Princes of the earth, the respect and observance of whom was so much recommended unto them? to declare them their inferiours, their subjects, their vassals, perverting all order both divine and humane? Where is there any earthly Prince or Monarch that ever made such a goodly shew and boast of their greatnesse and preeminences as the Popes have done? For what wee say here is nothing in comparison of what we have delivered in the second Booke.

11 Pope *Leo* the first in an epistle of his to the Emperour *Martian* writes to him in another manner style than would bee used at this day. Forasmuch (saith he) as your pietie and most religious pleasure ought in all things to bee obeyed, I have willingly contributed my opinion and advice to the Synodical Constitutions, which pleased and liked me well, concerning the confirmation of the Catholique Faith, and the condemnation of heretiques. Your Clemency will be pleased to take order by your command, that these things may come to the knowledge of the Clergie and Church. Pope *Gregory* the Great speakes in like manner to the Emperour *Maurice* in one of his epistles. In obedience to the commands of my Lords I have writ to my said fellow Bishop with all sweetnesse and humilitie. An ancient Authour writes, That when the Emperours by their Ambassadors commanded the Popes to come

*Gregor in re.
gift. indist. 13.
lib. 4. Epist. 29.*

to

* to Constantinople, they did not faile to repara thither, although they were
* afraid to be sent into banishment.

Princes have
respected anci-
ently by Popes:

12 One of our French Monkes testifies that the Popes were wont to adore the Emperours; and that Leo the second did so to Charles the Great. Pope Leo (saith he) set the crowne upon his head, all the people of Rome shouting out, Life and victory to Charles Augustus, crowned by God, the Great, and peacefull Emperour of the Romanes. After which acclamations hee was adored by the same Pope, after the manner of ancient Princes. Francis Guicciardine relates that about the same time of the same Emperour, The Popes were wont to put these words in their Bulls, to shew the date of them, Imperante Carolo domino nostro.

Appendix Eu-
tropii.
Antonius de
gestis Franco-
rum lib. 4 c. 10:
Guicciardin.
lib 2. hist. Ital.

13 In the Acts of the Councell of Meaux holden in the yeare eight hundred fortie five, under Charles the younger, King of France, we reade this Chapter taken out of another French Councell. If any man out of a swolne and contumacious spirit be so bold, as against all authority and reason, obstinately to contradict the Royall power, which is given by God, as the Apostle saith: and if hee peremptorily refuse to obey his just and reasonable commands, according to God and Ecclesiasticall authority, and the law Civill, let him be accursed. The ancient Councils, both Generall and particular, are full of titles of honour and termes of respect and reverence towards Kings and Emperours. Miserable age! That we should bee now put to it to insist upon such discourfes as these, to keepe within compasse the ambition and vanitie of such as cannot bee commended but for their holy humility especially.

Synodus Mel-
densis extat
tom 3. Concil.
pag. 870.

1650 1650 1650 1650 1650 1650 1650 1650 1650 1650

CHAP. V.

The authority of Kings and Emperours for as much as concernes the Church and Clergie.



WE have scene already the power of Kings and Princes made nothing of, and enslaved to Churchmen; their honour debased, their place usurped, their majesty disregarded. Now over and above what hath beene delivered particularly upon every point already, wee must here shew that the authority and dignity which they have in the Church is but to cleare the doubt which our Canonists raise, Whether the Emperour deserve to have a Subdeacons place. Kings and Princes being ordained by God, in such sort that all their subjects, even the Ecclesiastiques themselves, are bound to give honour and obedience to them, have both the powers in their owne hand, the Ecclesiasticall and the Civill, which they exercise either by themselves immediately, or by those upon whom they bestow them.

2 Marfilinus of Padua proves it by many pertinent reasons, which would be too long to produce, in the fourth, fift, and ninth Chapters of the second part of his *Defensor pacis*. And in another place he saith, Whence it appeares to be true what we have already set downe; that the coactive authority, as well over Clergy men as others, belongeth to the humane Lawgiver, or to him that rules in his behalfe. And de Ferrarius the Practitioner saith, Thou must know that Ignoramus, that the Empire had sometimes both the sword, the ten-

Marfil. cap. 21.
part. 2. pag. 318
petrus de Fer-
rariis in forma
libelli quo agit
ex subdit. in
ver. ex suo cot-
porall

rael did burne incense to it. The book of the Law being found after it had beene a long time lost, King *Iosias* commanded *Hilkiah* the High Priest, and some others to goe to *Huldah* the Prophetesse to enquire concerning this booke. Having heard their report after their returne, he went up into the house of the Lord, and all the men of Judah and all the inhabitants of Jerusalem with him, and the Priests, and the Prophets, and all the people both small and great, and hee read in their eares all the words of the book of the Covenant which was found in the house of the Lord. And he made a covenant before the Lord, to walke after the Lord, and to keepe his commandements, and his testimonies, and his statutes, with all their heart. And he commanded *Hilkiah* the high Priest, and the Priests of the second order, and the keepers of the doore, to bring forth out of the Temple of the Lord all the vessels that were made for Baal. And he put downe the idolatrous Priests whom the Kings of Judah had ordained to burne incense, and destroyed their altars: And did other such like things concerning the order and discipline of the Church.

Kings suprema-
cie anciently
allowed.

2 King. c. 22.

7 Let us prove this further by the example and testimonies of Popes. The fourth Councell (saith *Zonaras*) was called by reason of the instance which was made by *Leo* Pope of Rome, and *Anatolius* Patriarch of new Rome, to the Emperour *Martian*, that the opinions of *Dioscorus* Patriarch of Alexandria, and *Eutyches* might not remaine unexamined, and that the crime committed against St. *Flavian*, might not bee slurred over under hand. Pope *Boniface* the first intreats the Emperour *Honorius* in his letters, to take order that they doe not proceed to the Creation of the Pope by corruption; which gave him occasion to make a Decree thereupon. Wee have related the passages of it in another place.

Zonaras tom. 3.
pag. 38.

Vid decret. Bonif. Papae in decreto *Isidori*.

8 Pope *Gregory* the first writ to *Aldebert* King of England in these termes; Most glorious Sonne, bee diligent to preserve that grace you have received from God: make haste to extend the Christian faith over all people which are subject to you: multiplie the zeal of your uprightnesse by their conversion: take away the service of Idols, pull down the edifices of their temples, exhorting thereunto the minds of your subjects, in great uprightnesse and purity of life; edifie them by frightening, by flattering, by correcting them, that so you may be rewarded in heaven by him whose name and knowledge you shall have so dilated upon earth. The same St. *Gregorie* writ to *Childebert*, King of France in this manner. For as much as wee have beene informed of certaine things which doe highly offend Almighty God, and doe greatly disgrace the honour and reverence of the Priesthood, wee intreat you to take order that such things may be mended by the censure of your power. And to King *Theodebert* thus; This would be absolutely profitable for your Kingdome, if that which is committed against God within your Dominions were corrected by such reformation as your excellence shall applie unto it.

Gregor. in Regist. Indict. 4. l. 9. ep. 60.

Idem Greg. in Regist. Indict. 12. l. 4. ep. 53.

Idem Greg. Indict. 4. l. 9. ep. 54.

9 The Acts of a Synod holden at Rome in the year 876, about the Coronation of *Charles* the second, son to *Lewes* the Gentle, contains a certain proposition made by Pope *John* the eight, where amongst other things, speaking of *Charles* the Great, he saith of him, That having raised all the Churches to a mighty greatnesse, hee had alwaies this wish and desire, of reforming and restoring the holy Roman Church to her first order and estate. Hee addes presently after; That hee learned the state of Religion out of holy writ, which he found to be unhusbanded, and overgrowne with the thornes of divers errors and abuses: That he trim'd it up with knowledge both divine and humane, purg'd it from errors, and furnisht it with sure and certaine doctrines.

V Scriptores
coetaneos
Patriarchi p. 499.

10 *John* of Paris, a Fryer Predicant, who lived about the year 1280, saith, That it is lawfull for a Prince to repell the abuses of the spirituall sword in such sort as hee may proceed by the Materiall sword: especially when the

Joan de Paris. in tract. de pot. Reg. et Papal. c. 21.

Princes to see
to the reforma-
tion of the
Church.

Clau. Espens.
Theol. Paris.
in epist. ad Ti-
tum. cap. 3. di-
gress. 10.

Naucier gene.
35. p. 152.

Radeni. l. 2. cap.
43. 54. 55. 64.
65.

Germanicor.
Chron. l. 27
p. 271.
Nauc. gen. 48.

Naucier. gener.
48. p. 275.

Acta Concilii
Pisani. 2.

'abuse of the spirituall sword turnes to the prejudice of the common-wealth,
'the care whereof belongs unto the Kings; otherwise hee should beare the
'sword in vaine.

11 *Clandius Espensius* a Doctour of the *Sorbon*, in an epistle of his printed 1547, where he treats of the institution of a Prince, teacheth, That it belongs to a Prince to take upon him the reformation of the Church, then especiallie when shee is full of so great abuses, errors, and heresies. And upon the Epistle to *Titus*. 'I will here adde one thing (saith he) for feare lest any bodie should thinke that it concernes Princes, onely that prophane things succeed well, and not sacred too; as if they were only keepers of the second table of the Decalogue which concernes our neighbour, and not of the first also which concernes God and the Church. Secular Princes have got the higher degree of power in the Church, therby to fortifie Ecclesiasticall discipline, that they may command with terrour what the Clergy cannot doe by their bare word; and the heavenly Kingdome may bee advanced by the earthly. According hereunto wee may affirme that the great schismes and divisions, which have dismembred all the Church in these later daies, have beene appeased and accorded especially by the authoritie of Kings and Princes.

12 The Emperour *Henry* the third, seeing the abuse which was at *Rome* by meanes of the creation of three Popes, to wit, *Bennet* the ninth, *Sylvester* the third, and *Gregorie* the sixth, yea of a fourth too, namely *Gratian* who had drawne over the rest by briberie, presently made thitherwards, and called a Councell, and made them bee dismissed, and another substituted in their stead by lawfull election. *Frederick* the first to remove the schisme betwixt the two Popes, *Victor*, and *Alexander* the third. 'By the counsell and advice of his Princes (saith *Radenicus*) resolved with himselfe to take care that neither the state of the Church, nor the Common-wealth of the Empire should receive any damage thereby: And hearing that both of them had beene elected & consecrated Bishops, and that the one had excommunicated the other, he thought that this difference could not bee determined but by a Councell. Hee therefore called one, after the example of the ancient Emperors, and summoned both the parties to it, caused one to be condemned for not appearing, to wit, *Alexander*, and the other to bee confirmed as lawfully elect. 'As soone as the Emperour *Sigismund* was prefer'd to the Empire, (saith the *German Chronicle*) he put on this resolution, not to spare any paines for the pacifying of the Church, which was then miserably rent with divers factions, more like a most confused Chaos, than a Congregation of faithfull men, and Saints of God. Hee sent certaine Ambassadors to the Popes, and to the Bishops, to compose the affaires of the Church, and make an agreement betwixt the Popes. Which hee did so well, that notwithstanding the collusion which was between them and all the Legierdemaine, the Councell of *Constance* was celebrated, where all those Popes which were no lesse than three in number were deposed, namely *Iohn* the 23, *Gregory* the 12, and *Bennet* the 13, and *Martin* the 5 was chosen in their place.

13 The same Emperour, together with other Christian Princes, did oppose *Eugenius* the fourth, about a translation of the Councell of *Basil* which hee would have made, and they caused it to continue, in such sort that hee himselfe was there deposed. The Emperour *Maximilian*, and King *Lewes* the twelfth proceeded to the convocation of the second Councell of *Pisa*, to reforme such disorders as were in the Church, seeing that *Iulius* the second made no reckoning of them. The Emperour in his command saith among other things, *That the Pope and Cardinals not performing their dutie in this particular, hee would not doe as they did, for feare lest God should accuse him of negligence: inasmuch as they behaving themselves negligently herein, we* (saith he)

as Emperour, Protectour, and defender of the holy mother Church, are bound, forasmuch as lies in our power, to relieve so great necessities. King Lewes sent out a commandement of the like nature, which beginnes thus; 'Be it knowne unto all and every man present and to come, that as our ancestours have alwaies beene not only favourers and assistants, but also most vigilant champions, most good and constant defenders of the Christian faith, and the holy Roman Church, in all matters of importance, without sparing any paines or danger: we, following the steps of our predecessours, considering what great profit generall Councils have brought to the Christian Common-wealth, and what damage the Church Catholique hath received by the intermission of them, and the great necessitie which there is at this present, to assemble a Councell of the Church Catholique for the rooting out of heresies, schismes and factions in divers parts of the world, for the reformation of manners in the Church, and punishment of crimes which are too notorious, too lasting, and incorrigible both in the head and members, to establish the peace of Christians, to discharge our selves of our dutie towards God. Wee have deputed our well-beloved and trustie Mr. Iohn de Biragua Chancellour of our Exchequer for the Dutchie of Millain, Balthasar Plat another of the Proctours of our Exchequer, to signifie and assemble a generall Councell in our name; or together with our welbeloved brother Maximilian the most sacred Emperour, &c.

Princes to see to the reformation of the Church.

14 This is not the first time that our Kings have travailed about the Convocation of Generall Councils. Charles the sixth bestir'd himselfe to remove the schisme which was betwixt Benet the thirteenth, and Boniface the ninth, and to dispose all the Princes of Christendome for the same designe, according to the testimonie of an English Historian; Hee heard with patience (saith he) the Legats of either Pope: but by the advice of his divines hee would not submit himselfe, neither to the one nor the other. Hee rather thought upon a meanes whereby hee might relieve the Church, by removing out of her all matter of dissension. Having therefore sent his Ambassadors to the Emperour, (whose authority, faith and affection ought to surpasse that of other men) as also to the Kings of England, Bohemia and Hungaria, he conjured them not to bee wanting to the publique good and tranquillitie. All men of any judgement doe well know that the peace of the Church must come out of this quarter. This may bee done when it shall please the divine bountie to touch the heart of our Sovereigne Prince, who hath greater meanes than any other to acquire this honour. God hath made him peaceable, that so he may procure this good to Christendome. O great Prince hearken to the complaints which your Universtie of Paris addressed to King Charles the sixth, one of your Predecessours, and apply them to your selfe.

Guliel. Neubrigen sis l. 4. c. 1.

15 'Indeavour for this peace, and for the safetie of your foster mother the Church, and imploy to that end (most Christian Prince) all your strength as you have begunne to doe: cure this maladie: looke upon her which is desolate: have pitie upon her which is oppressed: relieve her which is undeservedly dejected: stretch forth your helping hand to her which is extreameley weake, and which is not able to rise out of her bed: Doe not deferre any longer to hear her which implores your aid with continual sighs, and plaints, and groanes: Preferre this before all care of temporall things, how profitable and usefull soever they bee. This onely businesse ought to bee preferred before all others, inasmuch as all others will have a more happie successe by reason of this, and the honour of your Kingdome, which you have got by your ancestours shall bee preserved unto you and to this Realme. O that you would remember that you alone doe not beare the title of [most Christian] in vaine, but because that your ancestours did ever succour the Church in all

Epistola Universitatis Parisiensis ad Carolum 6. p. 7.

Petitions made
to Kings for
reformation.

her necessities above all others. Loose not this priviledge, this so noble and
magnificent title. Doe not suffer any man to take this honour from you. Doe
not suffer your selfe to bee outvied in it: Defend your right, your name, your
honour, let the hopes of al Catholiques, and your brethren in Christ move you,
w^{ch} in this matter depends totally upon your person: for both all Catholique
Princes, and all others doe waite upon your hand in this affaire, as upon him
to whom it does belong most of right, of custome, of power, and other re-
pects. Let the renowned and immortall praise of the thing it selfe move
you to erect a perpetuall monument of your name, in the hearts and mouths
of all men.

Conrad de Ger-
tenhusen præ-
positus Eccles.
Wormat. in
tract. de Schis-
mate pag. 96.

16 A German Devine, Provost of the Church of *Worms*, made a petition
and exhortation almost like the former, which hee exhibited to one of our
Kings: whether it was to the former or no, I know not; but at least thus much
wee know, hee was of the same name. For in an Epistle which bears this in-
scription in the front, *De Schismate, epistola Conradi ad Regem Carolum ad fa-
ciendam Synodum*, towards the end thereof he be speaks him in these words;
Now I will addresse the last part of my rude language to you, most devout and
most Christian King of France. Being such and so great as you are, set your
minde, O Prince, upon such things as belong to Princes, so shall you bee above the
Heads. What will you thinke upon then? surely upon this, that peace may bee
made by your Prowesse. You thinke upon this that you are a King: thinke also
that if you would reigne long in happinesse, it is written of you; The King which
sits upon the seat of justice both disperse all evill. Let no man seduce you by vaine
words. Honour and fulfill your ministerie. But how? Certes that such as are
farre off and such as are neare, may both have peace by your meanes: that the
rents of holy mother Church may be sowed up by you: I say the comon mother both
of you and us: who hath fed you with her breasts, from whose mouth you have recei-
ved the honey of regeneration, and the milke of Christian doctrine: a streame of
bloud, springing from the side of her spouse, who was stretched out for you upon
the tree of the crosse, both adorned your cheeks. And therefore her cause is yours;
her wrong is your wrong. Arise, O Prince, arise up against it; build a wall for
the house of Israel and fight. And afterwards hee addes, Above all things you
must strive for this, O glorious King, and long after it with all your heart, and
labour for it with all your might, that there may bee a Generall Councell cal-
led, at which without the effusion of bloud, by the grace of God, all things
may be reduced to peace and concord.

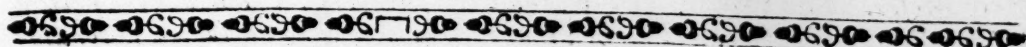
17 Now this Prince, whether it was *Charles* the sixt or the seventh, (for
it must be one of the two) put his hand to the reformation of the Church pret-
tie handsomly. For under the first there was a kinde of neutralitie made, in
such sort that there was no acknowledging of Popes in *France*: there were
also many goodly Ordinances set out against the abuses of Popes and of the
Court of *Rome*: the Councell of *Constance* was held also under him; where
the power of the Pope, which was formerly without either beginning or end
(as they use to say) was confined within certaine bounds and limits. To which
Councell he did contribute his Ambassadors, and many learned Devines; among
the rest the great Cardinall of *Cambray*, Mr. *John Gerson*, as also the Univer-
sitie of *Paris*, which had no meane authoritie there, as we collect from the Acts
themselves. Under the other were holden the Councels of *Pavie*, *Siena*, and
that famous one of *Basil*, which made some strong assaults to moderate that
unbridled power of Popes. The Pragmatique Sanction was then also set out
in this Kingdome, the most usefull and most commendable Ordinance that ever
was made in *France*: which hath beene since the butt against which the mo-
derne Popes have levell'd all their curses; having lopt it so neare that there re-
maines nothing but the trunk, which they never yet knew how to reverse:
namely

Nauclemege-
nerat. 48.

namely that Decree which contains the authoritie of a Councell above the Pope, and another concerning Annats.

Church-lawes
made by Em-
perours.

18 The Emperour *Charles* the fifth, and *Charles* the ninth, King of *France*, have sufficiently shewed what power they had in the Church; considering that during the time of the Councell of *Trent* they endeavoured to compose the differences which were in their Empire and Kingdomes concerning point of Religion. They made things be disputed in divers Imperiall Diets: and at the conference of *Poissy*. They made Ecclesiasticall lawes, as namely that of the *Interim* for *Germanie*, the Ordinances of *Orleans* and *Moulins* for *France*, where there are good rules for Church discipline. And the late King *Henry* the third did more yet in establishing Edicts, which derogate from the Decrees of the Councell it selfe.



CHAP. VI.

That Emperours and Kings have in all ages made some Lawes concerning Ecclesiasticall politie and discipline: and that they had power so to doe.



1 **H**E should shew himselfe a meere ignorant in law that would deny that Christian Kings and Emperours have at all times made lawes for the politie, government, and discipline Ecclesiasticall. For proofe whereof he need but reade the sixteenth booke of the Code of *Theodosius*, the first of *Iustinians*, the novell Constitutions of *Theodosius*, *Valentinian*, and other Emperours, which are put after the same Code of *Theodosius*: those of *Iustinian*, and his Edicts: those of *Leo* and the other Emperours which ruled the Empire after *Iustinian*: some whereof are added in the late impressions of the body of the Civill Law: and other some are to be found in the *Ius orientale de Benefidiis*; and in the booke intituled *Ius Græco-Romanum*. As also the Capitulary of *Charles* the Great, with divers other Ordinances of our Kings of *France* made about this particular, which may bee read in the Collections of them. From which it will appeare that there is no part of Ecclesiasticall discipline, which hath not beene managed, regulated, reform'd, and purged by them, as need required.

2 Well fare Doctor *Esperensius*, who when he is speaking of this Royall power, and shaping an answer even to those that doe Princes so much honour as to make them meere executioners of the Decrees of Clergie men, not having any authoritie to enter into the cognizance of the cause. *If Princes* (saith he) *must not meddle with sacred things, to what purpose are there so many lawes and Imperiall Constitutions about Ecclesiasticall matters in the Code, the Novels, and the Authentiques? Why so many Royall Edicts and Decrees of Senatus extant in the Annals of all Christians? I know what the matter is; when the fires were kindled over all France to burn them all alive, Religion was then a case Royal. But when the question is about a necessary reformation of the Clergie or Monkerie, or sending Pastours home to their flocks, this is a case Synodicall or Papall: For as I remember I have heard some distinguish so, and those ever shoope themselves.*

*Claudius Espe-
rensius in commen.
in Epist ad Ti-
moteum cap. 3. de
gress. 10.*

Church discipline
anciently
prescribed by
Kings.

As if Printers were no more but ministers of anothers zeal (oftentimes indiscreet and without knowledge) that I say not executioners of cruelty : and not rather Guardians, Protectours, and externall defendours of all the constitutions of the Church, as her children,

Deut. cap. 17.
vers. 18, 19.

3 But let us here shew by good examples and sufficient testimonies in what fashion Secular Princes have medled with such things as concern the Church. The first lesson which God gives the King, which would bee established over his people; is this; *It shall bee when he sitteth upon the throne of his Kingdome, that hee shall write him a copy of this law in a booke, out of that which is before the Priests, and the Levites. And it shall be with him, and hee shall read therein all the dayes of his life : that he may learne to feare the Lord his God, to keepe all the words of this law, and these Statutes to do them.* According hereunto the Lord speaks thus to Joshua, whom he had chosen to be the governour of his people after Moses. *This booke of the law shall not depart out of thy mouth, but thou shalt meditate therein day and night : that thou mayest observe to doe according to all that is written therein.*

Josh. 1. 8.

1 Chron. c. 23.
vers. 2, 4.

Vers. 5.

Vers. 6.
Vers. 13.

1 Chron. c. 22.
vers. 9, 10.

2 Chron. c. 24.
vers. 4, 5, 6, 8.

Vers. 7, 8.

4 Let us now see how these Kings and Governours behaved themselves in the ancient Church, and the power which they tooke upon them without rebuke, or to speake more properly, with approbation. David gathered together all the Princes of Israel, with the Priests and the Levites. Of which twenty and foure thousand were chosen to set forward the worke of the house of the Lord : and six thousand were Officers and Iudges. Moreover, foure thousand were Porters, and foure thousand praised the Lord with instruments which hee made to praise therewith. And David divided them into courses among the sons of Levi. And a litle after, And Aaron was separated that he should sanctifie the most holy things, *but his sons for ever, to burne incense before the Lord, to minister unto him, and to blesse his name for ever.* All this concernes the discipline of the Church : and yet all was done by the conduct and command of David. King Solomon built the Temple of the Lord in Jerusalem, by the speciall appointment of God. *The son that shall bee borne to thee, shall bee a man of rest. Hee shall build an house for my name.* David would have built the temple himself, but he was forbid by the Lord, because he had shed blood. King Joash repaired it afterwards. And it came to passe after this, that Joash was minded to repaire the house of the Lord. And he gathered together the Priests and the Levites, and commanded them to goe out unto the Cities of Judah, and gather out of all Israel money to repaire the house of the Lord from year to year. And when the Levites hastened not, the King called for Johoiadah the chief, and said unto him, *Why hast thou not required of the Levites to bring out of Judah, and out of Jerusalem the collection ?* And at the Kings commandement they made a chest, into which every man brought his share and portion that Moses had laid upon them. This money was brought unto the King, and distributed by him and the high Priest amongst those that wrought about the temple.

Capitul. Caroli.
Magni in pref.

5 The Emperour Charlemaigne, who was as great in Ecclesiastical policie, as in feats of armes, speaks on this wise to the Clergy of his Empire, in the preface of his Capitulary. *' We have sent our Deputies unto you ; to the intent that they by our authoritie, may, together with you, correct what shall stand in need of correction. We have also added certaine Chapters of Canonick ordinances, such as we thought to bee most necessarie for you. Let no man, I entreat you, thinke or censure this pious admonition for presumptuous, whereby wee force our selves to correct what is amisse, to cut off what is superfluous, and briefly to compact what is good. But rather let everie man receive it with a well-willing minde of charitie. For wee have read in the booke of Kings, how Ios endeavoured to restore the Kingdome which God had given him, in the service of the true God, by going about it, by correcting and admonishing it.*

6 Wee

6 Wee have elsewhere said that he discoursed himselfe about points of divinitie at the Councel of *Francfort*. Nor doe wee ever finde so many Synods holden as in his reigne, and all by his command: which is a faire president for his successors. By his command (saith *Regino*) there were Councels celebrated in all parts of *France* by the Bishops, about the state of the Church. One was held at *Mentz*, another at *Rhemes*, a third at *Tours*, a fourth at *Cavaillon*, a fifth at *Arles*; and the severall Constitutions which were made in every one of them, were confirmed by the Emperour. Besides these five which were held in the year 813, namely but one year before his decease, hee called one at *Worms*, the year 770. One at *Valentia* in 771. Another at *Worms* in 772. Another at *Genes* the year 773. Another at a place called *Duria*, in 775. Another at *Cullen*, 782. A third at *Worms*, 787. Another at a place called *Ingelubeym*, the year 788. And a Generall one consisting of all the Western Churches, at *Francfort*, the year 794. Besides others which may be observed out of histories.

Princes may not preach nor administer the Sacraments.

Regino sub ann. 813.

7 See now then how Kings have a commanding power over the Clergy; how they make Ordinances about such things as concerne Ecclesiastical discipline; how they ingage themselves in such matters above all others; yet not so as to minister in the Church, to offer incense, or such like. For this belongs properly to the Church, and cannot bee taken from them. This is the reason why King *Hezekiah* speaks thus to the Priests and Levites, when hee exhorts them to doe their dutie, *My sons be not now negligent; for the Lord hath chosen you to stand before him, to serve him, and that you should minister unto him, and burne incense*. Hee calls them sons, or children, (that wee may observe so much by the way) whereas our Canon law on the contrary saith, that Bishops are the fathers and masters of Kings and Princes, as wee have seene already. It is not lawfull for Princes so much as to touch this mysterie: and this is the reason why King *Vzziah* was smitten with a leprosie, because hee had taken upon him to offer incense upon the altar: and the Priests withstood him. From whence our Popes make a wonderous strange consequence, when they conclude from hence, that Kings and Emperours cannot in any sort meddle with any thing that concernes the Church, save only so farre forth as they are commanded by them. Pope *Paul* the third serves himselfe of this instance against the Emperour *Charles* the fift; being vexed at some Decrees which were made concerning Protestants at the Imperiall Diet of *Spire*, ann. 1544. *Vzziah* (saith hee) was an excellent King, and yet for all that became a leper, God so punishing his presumption, because hee would have burnt incense upon the Altar. It is a worke well pleasing to God, to have a care of his Churches; but that is the Priests office, not yours; but it belongs especially to mee, to whom God hath given the power of binding and loosing. The Kings of these daies must not meddle with the administration of the Sacraments, the performing of Ceremonies, the preaching of the word, nor other such Ecclesiasticall offices. But for the ordaining and making of Ceremonies, for the reformation of abuses, the extirpation of schismes and heresies, the politie of the Church, and such like things, they both may and must look to them; and have alwaies done so: either by having a hand in them themselves, or commanding them to bee done, or by confirming the lawes and statutes and ordinances concerning them.

2 Chr. 29. 11.

2 Chron. 26. 16. &c.

Sleidan lib. 16. not contradicted by Surius and Fontanus.

8 Wee will here observe by the way, that the Emperour, the Kings of *England* and *France*, have a more particular right and priviledge in the Church than others, by reason of their Vnction: at least if wee take *Balsamon* the Patriarch of *Antioch* his words for it; who commenting upon the 69 Chapter of the Councell in *Trullo* saith, The Orthodox Emperours that promote the Patriarchs, with invocation of the blessed Trinitie, and are the anointed of the Lord

Balsamo in c. 696 Synod, in Trullo. p. 238.

Lord

Kings power
in the Church
confes'd by
Councils.

Lord, goe in to the blessed altar when they please, and offer incense, and im-
print the character with a triple wax, aswel as Prelates doe, yea they teach the
people to instruct them. And he afterwards adds, *Forasmuch as hee that is now
Emperour, is also the Lords anoynted by reason of the Chrisme, that is, of the an-
ction of the Kingdome, and that Christ our God is reckoned for a Priest aswell as
others, hee is also justly endowed with priestly graces.* Some are of opinion that
this is the reason that our King of France receives the holy communion under
both kinds; that hee is served by those Clergy men which are most eminent in
dignitie, as the Archbishop Cardinals, as when the kisse of peace is to bee gi-
ven in the Church, they must bring it him, or for saying grace at his table, and
such like. But let us hold on our former course.

Sexta Synod.
in Trullo. c. 38.
Et Balsamon in
eandem p. 219.

9 One of the greatest arguments wee have to justifie this power, is, that
Councils themselves have confessed it, and have recommended such constitu-
tions to our observation. The sixt Generall Synod, called in *Trullo*, declares,

That they observe the Canon which was made by their predecessours, which
sayes thus, If any citie by the Emperours power have beene made anew, or
hereafter shall bee made, let the order of things Ecclesiasticall conforme unto
the order of Civill and Politique affaires. Where *Balsamon* the Patriarch
makes this exposition; This present Canon doth ordaine that such cities as
are preferr'd by the Imperiall power, or hereafter shall bee preferred, be ho-
noured by the Churches in such sort as the Emperours command shall pre-
scribe. That is, bee accounted Episcopall or Metropolitan Sees. For it is fit-
ting the Ecclesiasticall order follow the Civill command. We say likewise,
that by this present Canon the Emperour hath power to erect new Bishop-
riques, and preferre others to the dignitie of Metropolitans; and set a forme
for the election to them, and other administration of them, so as hee shall
thinke good. According hereunto the Primacy of the Church was conferr'd
upon *Boniface* the fourth, by the Emperour *Phocas*. He obtained of the Em-
perour *Phocas* (saith *Martinus Polonus*) that the Church of the Apostle Saint
Peter should be the head of all Churches, because that of Constantinople did pre-
tend to be the chiefe.

Mart. p. 336.

Can. Constanti-
nus.

Can. Omnes.
dist. 22.

Appendix ad
Martinum Po-
lonum in Joan.
22. sub ann.
1317.

10 The Popes have beene so well pleased to receive this Primacy at the
hands of Princes; that they have even made *Constantine* the Great speak of it
in the fabulous instrument of his donation. And giving over that they bragge,
That the Church of Rome erects Patriarchships, Primacies of Metropolitans,
Bishops Seates, and the dignities of all orders of Churches. For these are Pope
Nicholas the second his own words, in his Epistle which he writ to the *Mi-
lanois*, which is recorded in the great Decree. Which the later Popes knew
well how to practise; insomuch that Pope *John* the twenty second, made hor-
rible alterations in our France within a litle time. For he erected the Church
of *Tholouse* to an Archbishoprique: divided the Diocese of *Tholouse* into six
Bishopriques, the Bishops whereof should bee Suffragans to the Archbishop
of *Tholouse*: and turned six Villages into Cities, to wit, *Montauban*, *Rieux*,
Lombes, Abbey, *St. Papoul*, *Lavaur*, and *Mirepoix*, lodging the Bishops
in them, and erecting the Episcopall Seats there, assigning to every one his
proper Diocese. He created two Bishopriques within the Archbishoprique
of *Narbon*, the first at *Limoux*, whose seat hee translated to *Alet* not long
after; the second in the Abbey of Saint *Pons*, setting out their Dioceses. Hee
divided also the Bishoprique of *Alby* into two, and created one at *Castres*.
Hee erected divers others besides, which are reckoned up in particular by the
author of the continuation to *Martinus Polonus*, from whence I borrow-
ed the former passage *verbatim*. But let us returne to our former dis-
course.

11 A certaine Councell of *Paris* holden under *Lewes* the Gentle, saith,
that

that the Church approves and observes a constitution made by the Emperour *Iustinian* concerning excommunication. As concerning unlawfull excommunication (saith it) the law of the Catholique Emperour *Iustinian* (which the Catholique Church doth observe and approve) hath ordained, that no Priest shall excommunicate any man, till such time as the cause be proved for which the Ecclesiasticall Canons doe command it to bee inflicted. This very constitution of *Iustinian* hath beene followed and allowed by our Popes, as they themselves doe testifie in their Books; and the addition made unto it by the *Glosse*, is remarkable. So far a long time, about eight hundred yeares, the Emperours made lawes concerning Ecclesiasticall persons, and affaires; and the Church obeyed them. This *Glosse* was afterwards put out, because it told too much.

Ecclesiasticall
lawes made by
Emperours.

Can. de illicitis.
caus. 24. q. 3.

12 At the Councell of *Meaux* held in the yeare 945, it is said, 'That the Capitulary lawes concerning the Church, which were made and set out by the great Emperour *Charlemaine*, and by the Emperour *Lewes*, be strictly observed, as 'tis knowne that lawes should bee observed. The same Councell intreats King *Charles* the younger; 'To grant the Bishops a freer libertie for the execution of their ministeries in their Parishes. The same *Charles* the Great had ordained in his Capitulary, 'That to every Church there should bee given onely one entire Manour, without any other service: and that such Priests as are ordained and established in them, shall not be tyed and bound to doe any other service but Ecclesiasticall, for and in consideration of the tithes, and oblations of faithful people, houses, base Courts, or gardens adjoyning to the said Churches, nor for the Manour aforesaid. A certaine Councell held at *Paris*, doth commend and follow this same Ordinance, and our Popes have canonized it.

Conc. Meldens.
Cap. 78. To. 3.
Concil.
Conc. Meldens.
Cap. 28. Tom. 3.
Conc. p. 872.

Capit. Caroli
Magni. l. 1. c. 91

Can. secundum.
23. q. 8.

13 The Councell of *Pavy*, holden under the Emperour *Lewes* the second, in the yeare 855, addresseth these words unto him; 'As for the reparation of Churches, the Chapter which was made by your Predecessour is sufficient. But that it may bee observ'd, it stands in need of your admonition. So likewise forasmuch as concernes places for the entertaining of strangers, that which is set downe in the Capitularie ought to bee observed.

Conc. Ticinens.
c. 11. tom. 3.
Conc. pag. 894.

14 The Emperour *Iustinian* in one of his Edicts, doth excommunicate all heresies, and that of *Nestorius* and *Eutyches* in particular. Wee anathematize all heresie, and especially that of *Eutyches* and *Nestorius*, as also that of *Apollinaris*. Hee further ordaines, that if the followers of that sect doe not returne after the warning which should bee given unto them, by virtue of his Edict, That they should not looke for any favour or pardon, commanding that they should be punished with condigne punishment, as convicted and denounced heretiques. This Edict was commended and approved by *Epiphanius* Patriarch of *Constantinople*, and by a good number of Bishops, which were then at *Constantinople*, as the same *Iustinian* affirmeth in one of his Constitutions directed to him: where after he hath rehearsed the tenor of the said Edict, These are the things (saith he) which by our divine Edict we have condemned in the persons of heretiques; to which all the most holy Bishops and reverend Abbats, which were then present in this Citie, have, together with your Holynesse, subscribed. Pope *Iohn* in the answer which he made to the same Emperour, hath such another confirmation. Wee have beene informed (saith he) by the report of *Hypatius* and *Demetrius*, that you, being stirred up by the love of the faith, for the abolishing of the opinions of heretiques, have set out an Edict; following therein the Apostolicall doctrine, and with the consent of our brethren and fellow-Bishops: which wee by our authoritie doe here confirme, as conformable to the Apostolicall doctrine. Pope *Iohn's* successor would say now daies, That it does not concerne him to intermeddle so farre in divine matters. Hee goes further yet, for he prayes *Iustinian* that hee would mitigate this his Edict

L. Cum rella.
C. de summa
trinitate.

L. Cum vellemus
C. de Sacrosan-
cta Eccles.

Church lawes
made by Prin-
ces, admitted
by Popes.

Concilium Tri-
bunatum apud
Rhabanum.

Marsilius Padu-
anus in defens.
pach. cap. 21.
pag. 318.
Can. de Capitu-
lar. 19. dist. 10.

Can. legem.
dist. 53.

Can. Quia aut
leges. dist. 54.

Can. Si inter.
Caus. 6. quest. 4.

Vid. Im. Graco-
Romanum. to. 1.
lib. 5. pag. 517.

Edict towards such as would repent. "Forasmuch as the Church doth not shut her bosome against those that returne unto her: I entreat your Clemencie (saith he) that if they will returne to the union of the Church, by forsaking their errours; and casting off their bad intention, that you would turne the edge and point of your indignation from them, by receiving them into your communion, and admitting them into your favour upon our intercession.

15 A certaine Councell held at *Tribur* under King *Arnold*, which is extant in a Booke of *Rhabanus*, hath this preface: "In the 895 yeare of the incarnation of our Lord, the glorious King *Arnold* sojourning at *Tribur*, there were twenty six Bishops assembled; and to the number of a hundred Abbats of Monasteries; whom the same King commanded to treat of Ecclesiasticall lawes, and promised to shew himselfe a most devout coadjutor for the reestablishing of the Canons and Decrees; as also the Constitutions of his ancestors, which are contained in their Capitulary, so farre forth as he should find them infeebled. He assisted also the Bishops and the holy Synod by his authority Royall, against some secular persons who would have infringed the Episcopall authoritie: and those capitulary Lawes which are hereafter set downe, were published and approv'd by him.

16 As for the Popes, In former times they did not onely not contradict this, but rather became supplicants to Emperours for the obtaining of such rules and Ordinances, saith *Marsilius* of Padua. And indeed *Leo* the fourth writes to the Emperour *Lotharius* in this manner: "As for the Capitulary Ordinances and Imperiall Constitutions, as well of your selfe as of your predecessors, we declare unto you that we will observe and keepe them exactly, both at this present and for ever hereafter, so farre forth as we are or shall bee able: and if perchance any man either hath or doe informe you otherwise, know for certaine that he is a liar. See here a faire promise, which was canonized in the Decret, but it serves for nothing there but tapestrie.

17 The Emperour *Maurice* set out a prohibition in one of his Constitutions, "That such as were bound to beare armes, or to other publique services, should not be admitted into any Ecclesiasticall habit, nor into any Monasteries, seeing by that meanes they thought to secure their affaires. *Gregory* the Great sent this Edict to the Bishops of *Sicily*, recommending the observance of it unto them. Which was approved by his successours who have canonized this Epistle of his.

18 Pope *Gelasius* recommends the observance of lawes made by secular Princes about Ecclesiasticall matters. Who dare say (saith he) that the lawes of Princes, the rules of Fathers, or the new admonitions may be sleighted? And he afterward speakes of two naturall borne slaves who had beene made Deacons in the Church contrary to the said lawes. One of the *Bonifaces* writ thus to the Bishops of France, "If any doubt doe arise about Ecclesiasticall law or any other matter, betwixt any two Bishops belonging to the same Councell, let the Metropolitan in the first place judge of it, at the Councell with the rest of the Bishops: and if the parties will not stand to that judgement, then let the Primate of the Countrey have the hearing of it, and determine of it according to the Ecclesiasticall Canons, and your owne lawes; and neither of the parties shall have power to contradict it. Which is avowed in like manner by his successours.

19 We have elsewhere handled many points which concerne the authoritie of Kings and Princes; as the calling of Councells, the presidence and judgement in them, the authorizing of them, the election or nomination to Bishopricks, the jurisdiction over Clergie-men, and other things of like nature, which it is not necessary to reinculcate here. Wee will adde for a close that famous passage of *Demetrius* Archbishop of *Bulgaria*, which containes a great part of all that goes before, and with which for that reason we will conclude.

clude. Hee therefore in one of his responses to *Constantine Cabasilas* Archbishop of *Dyrrhachium*, saith; *The Emperour*, being as it were the common knowing Monarque of the Churches, doth preside in Synodicall determinations, and makes them be in force; he prescribes Ecclesiasticall Orders: he sets lawes to the lives, and politie of such as serve at the Altar, as also to the judgements of Bishops and Clerkes, and to the suffrages of vacant Churches: he preferres from a lesser honour to a greater, as by erecting a Metropolitane Church in stead of a Bishopricke, thereby adorning either the virtue of the man or the place. And, that I may speake in a word, save onely the administring of the Sacraments, the Emperour represents all the Pontificall priviledges, when hee proceeds in a lawfull and Canonickall way.

Spanish and French quarrell for precedence.

CHAP. VII.

Of other prejudices concerning the King of France and his kingdom in particular; and first of precedence.



ALL the former discourses are interwoven of the rights and liberties of the Realme of France, and the Gallicane Church. There remains yet some few, which we could not conveniently ranke elsewhere, whereof wee shall speake in this place, and shew the prejudice which is done unto them by this Councell. The first shall bee about the precedence which belongs unto our Kings before all others; which notwithstanding was denyed unto them before him of Spaine, and put in compromise, not without an apparent blemish to their sacred Majesties. The Councell indeed did not judge for the King of Spaine, but they declared, *That they meant not that any prejudice should accrue to such as had not taken their place.* But inasmuch as they suffered that controverisie, without passing their sentence upon his side, who had both the right and the possession, and to whom the Church of Rome is so much beholden. This is sufficient cause of complaint. Thus another mans right is encroached upon by degrees; it is enough at the first that a doubt is made of it, hee may in time gaine upon it, seeing he is already as it were in a parity. The libels which were put in concerning the precedence of the King of Spaine doe sufficiently shew us, what prejudice the toleration of a Councell hath done unto our kings. But it is expedient that wee relate the whole story of what hath ensued upon it.

Of this point see more in *Vignier de Bar. Augustinum Cravaliz*, and other Authors cited by M. Selden, Titles of honour. Part. 1. Chap. 3.

Ad finem Sess. 25 Decemb. 4.

3 The Count de Luna, Ambassadour of King Philip of Spaine, when hee came into the Councell the 21 of May 1563, seeing the Ambassadors of France had taken their place immediately after the Emperours, went and fate downe next to the Secretary of the Councell, making this protestation in Spanish.

Albeit the first place after the Emperours Ambassadors belongs unto me as I am such an Ambassadour both in this place and company, and every other, which before all things I do here declare and protest, yet not to disturbe the things which are here handled, nor give occasion to any man to retire, I take that place which is assigned unto me, using it for the present, and will use it so long as I shall thinke fit; yet in such sort, that I would have every man to know well (which I doe here declare and protest) that this my modesty and the regard which I have to the whole-

V. Historiam Concilii Trid. lib. 8.

Protestations
of the Ambassadours.

some consultations of this sacred Assembly in generall, can bee no prejudice to the dignity, majesty, and right of King Philip my master, nor his posterity, and that this right shall be no lesse saved and entire unto him for the present or upon other occasions; which I would have reserved unto him both in these actions and all other in all other places, and at all other times, to the intent that they may alwaies prosecute and maintaine these rights, and this claime as well as if that place which belongs unto me here and at this time as an Ambassadour of such quality had been granted unto me, disclaiming any thing that shall bee objected by any man against this my asseveration and protestation, so as it be no wrong unto them. Which protestation of mine contained in this libel, I desire the most holy Fathers may be written and inserted among the Acts of this most sacred Synod, and that it may not bee lawfull to publish the Acts without it, and a copy thereof to bee given unto mee, signed by the Secretary.

Extat hac protestatio & responsio in Actis Concilii Trid. Lugduni impressis apud Rovillium a. 1566. pag. 285.

3 The French Ambassadours, without being dismayed at this Rodomontado, modestly answered in these termes, ' If we should have fate to day in this Councell in any other place than our ancestors formerly did, and even of late in the Councell of *Constance*, and the last of *Lateran*, where they fate next after the Emperours Ambassadours, before the Ambassadors of all other Princes, and if this new place which the Count *de Luna*, the most illustrious Ambassadour of his Catholique Majesty, doth now goe to take, out of the ranke of the Ambassadours, could bring any prejudice to us or other Ambassadours, it were your part (most holy Fathers) which doe here by your noble office represent the Church Catholique, to cause us to be ranked in our ancient order, or else proceed against us by Evangelicall denunciations. But seeing that you are silent in the matter, and that the illustrious Ambassadours of his Imperiall Majesty, to whom the case is common with us, doe not oppose themselves against this innovation, we, who doe this day preserve the possession of their ancient right unto our Kings, amongst the ranke of Ambassadours, being placed next to the Ambassadour of his Imperiall Majestie, and who make no doubt of the faith, amitie, and affinitie of *Philip* the most great, and most puissant Catholique King, to *Charles* his brother the most Christian King, who is under age; wee onely desire of you, that you would so conceive of what hath beene done, and said this day, by the most illustrious Count *de Luna*, that no prejudice may accrue to the ancient prerogative, and perpetuall possession of the most Christian King, and that you would command, that this also be inserted in the Acts.

4 See here the beginning of the quarrell, which shewes a resolution on the Spaniards part, to change his place, and gaine the Prioritie. Wherein he was backed out by Pope *Pius* the second; who using all the power hee had in this Councell, sent a peremptorie command from *Rome*, that the Ambassadours of both the Kings should be censured at the same time. Heare what *Onuphrius Passuinus* saith of it, *At the Councell of Trent there was a great controversie because the Ambassadours of the two Kings were censured at the same time by speciall command from the Pope.* Hee saith truly that there was a great controversie, for the Lords of *Ferriers* and *Pibrac* tooke the Pope up for it with prettie tart termes, saying amongst other things, as appeares by the Oration delivered toward the end of September 1563. ' That instead of bread hee gave his eldest sons Scorpions; that they laid the blame of all that was done to their Prince upon him, that he robb'd his eldest sonne of the honour which is due unto him; that hee arrogated unto himselfe power and authoritie over the Councell; that he prescribed unto it, what it shall doe; that the French will not acknowledge him for Pope: and see what they did. After that the French Ambassadours had commanded the Prelats of *France*, that they should depart from the Councell, they themselves retired to *Venice*.

The Council
favours the
Spanish cause.

5 Wee will now set downe some passages out of the Acts of that Councell, to shew how those Fathers are not content to wrong our Kings indeed, but are further ambitious to make it appeare in writing. Pope *Paul* the third in his Bull of 1542. by which hee called the Councell, doth indeed give that honour which is due unto the King of *France*, ranking him in this order, in that exhortation which hee makes to Kings and Princes, 'Praying (saith he) the foresaid Emperour, the most Christian, and all other Kings, Dukes, and Princes, whose presence will bee very usefull, to come themselves in person to the celebration of this sacred Councell. In the 8 Session under *Paul* the third, the President of the Councell speaks in this manner, 'That they will go on successively, till it shal seeme expedient to our holy Father, who having communicated his Councell and advice with the most victorious Emperour, the most Christian King, and other Kings and Princes of Christendome, the Councell may and ought to bee assembled in this place.

6 All this goes well yet; but for all that, we doe not take it as a courtesie: there could be then no question of the precedencie, because the King of *Spaine* was Emperour too; and, as such, tooke place of the King of *France*. Now after that *Ferdinand* succeeded *Charles* the fifth, and there was a King of *Spaine* in severall, the Pope and the Councell altered their stile. *Pius* the fourth in a Bull of 1560, for the continuation of the Councell, 'Having acquainted (saith he) with our purpose, our welbeloved sonnes in Jesus Christ *Ferdinand* Emperour, elect of the *Romans*, and other Kings and Princes, that they send their Ambassadors, &c. And the Councell it selfe in the tenth Chapter of the ninth Session under *Pius* the fourth, *Wherefore it adviseth the Emperour, Kings, Common-wealths, Princes, &c.* And in the Acclamations at the end of the Councell worlt of all, 'Blessed bee the memory (say they) of the Emperour *Charles* the fifth, and of those most serene Kings, that promoted and protected this Generall Councell. Resp. Amen, Amen. Many yeares to the most Serene Emperour *Ferdinand* ever-Augustus, Orthodox and peaceable, and to all other Kings, Common-wealths and Princes.

7 See here as sad an end for our Kings as the beginning was pleasing. In the Catalogue of the fathers and Ambassadors they are diversly ranked, but still to the disadvantage of *France*. In the edition at *Lyons* in 4^{to}, printed by *Rovillius* ann. 1566; as also in the *French* translation by *Gensianus Hervetus*, printed 1566, and in the collections of the Orations spoken in the Councell, printed at *Paris* 1563, this title is put before it, 'The catalogue of the Ambassadors whose names are here underwritten, according to their coming to the Citie of *Trent*. And afterwards the Ambassadors are so ranked, that the *French* come after the *Spanish*. And in the catalogue of the Councell in Latine printed at *Anvers* 1596, and another at *Lyons* by the same *Rovillius* ann. 1584, the *French* Ambassadors are placed next after the Emperours; but it is afterwards said, 'That the King of *Spaines* Ambassador, or Oratour, sat by himselfe, by reason of the controversie which arose betwixt him and the Ambassadors of the most Christian King.

See here a suit for our Kings, which they may thank this Councell for. They can never approve the Acts of it, without doing unto themselves a most grosse prejudice. That will bee as much as giving the King of *Spaine* a title, whereby he will endeavour to make his cause good hereafter. And there is no other way to ward this blow but by rejecting the Councell: considering withall the great favours done by it unto the King of *Spaine*, not only in this but all other things. So when there is any occasion of making answer to his Ambassadors, this Councell cannot finde words significant enough to expresse their commendations, wherein it is too excessive; and on the contrary, too reserved and sparing when there is any question about them of *France*. And in stead

French took place anciently, as at the Lateran Councell.

Greg. Maguus in registro l. 5. c. 106.

Responsio Conc. Trid. ad Marchionem piscar.

Stanislaus Hofius l. 1. de legit. judiciis circa Principium.

of what Pope Gregory said, who compared the faith of our Kings to a great light shining in the dark; ranking them by that meanes, above all other Kings, in honour and dignitie: The Councell on the other side gives this prerogative to the Kings of Spaine, giving them the honour to bee the chiefe amongst all Catholique Princes. *Amongst whom* (saith it, speaking of Kings and Princes) *King Philip (Facile Princeps) the prime man, offers all his studies, industry, meanes and endeavours both of body and minde.*

9 One of the Presidents of that Councell, speaking of the Kings of France and Spaine, in a certaine booke of his, put the French King behind. For disputing against Brentius he saith, *But what a thing will this bee if those bee not religious whom the Catholique Church holdeth for such? As for the Kings of the Romans, of Spaine, France, England, Portugall, Hungary, Poland, Bohemia, Scotland, and all other Christian Princes, I doubt not but they are godly Princes.* I know very well that in writing that order is not alwaies observed which belongs unto the persons spoken of: but for him who had beene President in the Councell at that verie time when the controversie arose, hee cannot excuse himselfe from malicious and fraudulent dealing towards our Kings.

10 Besides, their right was so apparent that there could bee no question of it. In former Councells they had alwaies taken that place without any controversie. The Acts of them are a sufficient proof of it; and amongst other of that of Lateran, which begun 1512, and ended 1517, under Julius the second, and Leo the tenth. Where in the eighth Session the Ambassadors are ranked in this order.

The magnificent Signiour Lewes de Solier, Ambassador of the most Christian King of France.

The magnificent Signiour Jerom de Vic, Ambassador of the Catholique King Ferdinand of Aragon.

And in the ninth Session.

The magnificent Signiour Lewes de Solier, Ambassador of the most Christian King of France.

The magnificent Signiour Jerom de Vic, Ambassador of the most Catholique King of Spaine.

The same is againe repeated in the tenth Session.

Aeneas Sylvius l. 1. commentar. Concil. Basl.

11 Aeneas Sylvius, who was afterwards called Pope Pius the second, in the Acts of the Councell of Basl, ranks the Kings of France and Spaine in this order; *Of the Emperours Ambassadors the Bishop of Lubes, the Lord George of the French, the Arch-Bishop of Tours, the Bishop of Troyes, and others of our Colleagues, except the Arch-Bishop of Lyons Of the Castilians, only the Arch-Bishop of Consentia. Of the Aragonians, not a man: howbeit it was afterwards said, that the Bishop of Albigeaune, and Francis Barbarianus, who came for Milan, had undertaken for the King of Aragon.* In the edition of the Councells of Constance and Basl, printed at Milan by Gotardus Ponticus ann. 1511, there is a picture at the beginning and end of either of them, where the King of France is placed next to the Emperour.

12 There is likewise a very ancient book called, *The Provinciaall of all the Churches*, where after it hath reckoned up all the Archbishopriques that were at that time in Christendome, it placeth the Emperours and Kings in this manner:

Christian Emperours.

The Emperour of Rome.

The Emperour of Constantinople.

Christian

Christian Kings.

The King of France.
The King of England.
The King of Castile and Leon.
The King of Sicily.
The King of Aragon.
The King of Hungary, &c.

Opinions of
 Doctors con-
 cerning prece-
 dencie.

13 *The French colours (saith^a Baldus) march alwaies foremost; and no other King whatsoever may goe before them.* And elsewhere,^b *The King of France is above all other Kings.* Our Doctours marshall the Kings so that they alwaies put him of *France* in the fore front; as *Alberitus de Rosate*,^c *Antonius Corsetius*, and^d others. Some of them tellus, that if hee be walking with the Emperour, at the going in at doores, and other strait places, they enter both together sidewise, and the one doth not goe before the other. *Boniface^e de Vitalianis* witnesseth that at *Rome* in his time hee that spoke of a King without addition, was supposed to meane the King of *France*. An ancient Greek^f author saith the like for his time. An *English* Historian saith, the King of *France* is accounted the chiefe amongst all Kings. In brieft it is the common opinion of all the Doctours that ever writ of it: to seeke no further, even of the *Spaniards* themselves.

14 I will content my selfe with setting downe here in this place what hath beene spoken of this point by one of the King of *Spaine*s owne subjects, *Lancelot Conrade* by name, as considering that his testimony is authentique and void of all suspicion. *The Doctors* (saith he) *doe sometimes dispute which of all the Kings is to have the first degree of honour, and who is preferred above all the rest.* But they seeme generally to agree, that this honour belongs entirely to the King of *France*: for he is styled the most Christian King; and is above all Kings at this day, and takes place of them: as *Baldus* teacheth *Ad s. ult. Colum. ult. tit. De prohibita feudi alienatione per Fridericum.* And before him *Johannes Andreas* in cap. 2. *De præbend.* in 6. Which is followed by *Paris de Puteo* in *Tract. de duello. s. nobilis provocavit.* num. 10. lib. 25: And *Nicholas Boerius* *Tract. de ord. grad. utr. for. in prima parte* num. 12. And that by the authority of *Albericus de Rosate*, in *Rubric. Digest. de statu hominis. De Ripa* saith likewise in his *Tract. De peste* part. 1. num. 80. according to *Baldus* *Cons. 217. Ego* puto. volum. 3. that no man may pretend any prerogative of honour against the colours of the King of *France*. Hee afterwards comes to speake of the King of *Spaine*, whom he highly extols for his power, greatnesse, and titles; yet so as for matter of order he alwaies makes him inferiour to the King of *France*. And yet for all that he was his Prince, and *Conrade* his naturall subject, as being a native and inhabitant of the towne of *Landa* within the Duchy of *Milan*. For marke what hee saith himselfe of it when he reckons up the titles of the King of *Spaine*. He is King, Prince, Arch. Duke, Duke and Lord of divers townes: and was not long agoe made Duke of *Milan*, our Lord and our Duke. There is yet more in it: namely, that the saying of this Doctour was confirmed and authorized by a Decree of the Senate of *Milan*, that is, by one of the King of *Spaine*s Sovereigne Courts. For heare what the same author saith of it in his preface. *Petrus Paulus Arigonus* third President, and one of the Kings Counsellours in the Province of *Milan*, and with him *Petrus Antonius Marlianus*, *Johannes Baptista Raynoldus*, *Danefius Philidonus*, *Marcus Antonius Caymus*, Commissary appointed for this matter by speciall deputation, *Paulus Alia*, *Ludovicus Mazanta*, *Octavianus Bignamus* Senator elect by the King as being of *Lauda*, *Julius Clarus*, *Polictonius Mediobarba* *Molineus*, *Scipio Symoneta*, and *Leonardus Hecra*,

^a Baldus cons. 418.

^b Idem in comment. ad librum de feudis tit. de prohibito feud.

^c alienat per Freder. num. 24

^d Albericus de Rosate in rubr. Digest. de stat. homin.

^e Anton. Corset. in tract. de potest. reg. quest. 21. & 22.

^f Guido Pap. decis. 229

Nicolaus Boerius in addition. ad tractat. de authorit. sacr. mag. Concil.

basianum in 5 parte Catalogi Glorie mundi confid. 31.

Bonifacius de Vitalianis in prefat. super Clement.

Suidas in verbo Πῆξ.

Lancelot. Conradus Laudensis

in Templo omnium judicium.

lib. 1. cap. 2. §. 3 num. 12.

*Pius the 4. his
double dealing
in this point of
precedency.*

*Onuphrius in
Pio 4.*

rera, famous Lawyers and honourable Senatours, have by a speciall Decree ordained that this booke may be published. Nay Pope Pius himselfe, as the same author affirmeth in the processe of that discourse, confirmed it; (it may be without ever thinking of this.) And afterwards (saith hee) the great Pope Pius the fourth confirmed, and, as it were, consecrated this Temple by imposition of hands.

15 And yet for all that, he was the man who would have put the King of Spaine in equipage with ours at the Councell of Trent, as Onuphrius testifies. It is true which hee addes that the same Pope gave the precedency of honour to our Kings Ambassadour at Rome. Not long after (saith he) when there arose a controversie betwixt the French and Spanish Ambassadors who should have the more honourable place in publique assemblies, which was hatched long before by meanes of Francis Varga: the Pope after much dodging at last adjudged the first place to the French, after he had beene long plodding about a forme of agreement, but could finde none. For the Spaniard denied the precedency to the French, and the French would not endure that he should be made equall with him. But there is alwayes in the Popes exactions as well as in the decrees of our Councels, somewhat in the fag-end that spoiles all. For marke what followes. Upon this occasion, Ludovicus Requesenius, great commander of Castile, and Ambassadour of Spaine, being displeased, departed from Rome, after hee had made his publique protestation to the Pope, which the Pope admitted, and promised him he would judge of it. I know not how he meanes to proceed in it: for to judge after he hath once determined it himselfe, to what purpose? seeing there is no new evidence come in, and that he was so long a consulting about that judgement which he passed. To referre it to a Councell, that were as much as to confesse himselfe inferiour to it: he will beware of that blow. So you see we are put upon the quarrell againe.

16 After that there were some Popes that altered the place which the Emperours Ambassadors and they of other Kings used to have in their Chappell, & made choice of another altogether inconvenient, to the intent that they not accepting of it, the Spanish Ambassadors should not lose the precedency, which fell out accordingly. And from that time forwards there hath beene a contention about precedency betwixt the Ambassadors of the two Kings. Which was debated at Venice when the league was concluded against the Turke betwixt the Pope, the King of Spaine, and the Venetians. For the Spanish Ambassadour entreated that the French might not assit at the Ceremonies. But the Signiory thought it fit that he should hold that ranke of honour which belonged unto him. And so he did. It is true the Spaniard, who was a Church man, to slip his necke out of the collar, desired that he might sing Masse: which was granted unto him. As for the Court of Rome, the King of Spaine hath, for some late yeares, had so much succour and favour there, that nothing could be hoped for from thence but to the disadvantage of the French. The nonage of King Charles emboldened the King of Spaine to call his honours in question: our by-past follies have made him attempt upon the State, for his successours. But he that preserved and restored it, as he surpasseth all the Kings of the earth in glorious atchievements, will one day put a period to this dispute.

CHAP. VIII.

Of Indults and Excommunications.



His Councell repeales the Indults granted to the Chancelour, Presidents, Masters of Requests, Counsellours, and other Officers of the Courts of Parliament. The holy Synod doth decree that mandates by way of provision, and expectative graces (as they call them) shall not hereafter be granted to any, not to Colledges, Vniuersities, Senates, or other particular persons, by the name of Indult, or for a sum certain, or upon any other pretence: nor shall it be lawfull for them to use such as are already granted.

Neither shall mentall reservations, nor any other graces upon the future vacancy of Benefices, nor Indults for another mans Church or Monastery, be granted to any, not even to the Cardinals of the holy Roman Church: and such as have been formerly granted shall be accounted abrogate. And yet for all this it is a very ancient law, some footsteps whereof may bee found in the times of Pope Sixtus the fourth, and that even under the reigne of Philip the Faire, as tis said in the liberties of the Gallicane Church. Eugenius the fourth granted also some Buls out in this case, which were afterwards confirmed by Paul the third, in the yeare 1538, the publication whereof is inserted among the great Ordinances. It is a thing which ha's beene tolerated by our Kings, yea which ha's beene confirmed by them: whose authoritie, if there were no other title, may suffice in this case.

2 I will here transcribe certaine proviso's made by King Lewes th'eleveth, taken out of an ancient Register which I have in my custody, for the prooffe of my assertion Lewes by the grace of God King of France, to our welbeloved and faithfull Counsellour the Bishop of Limoges, and to our trusty and welbeloved the Deane and Chapter of Limoges aforesaid, and to every one of you as well jointly as severally, sendeth greeting. Whereas our trusty and beloved the Chancelours, Presidents, Masters of ordinary requests for our household, Counsellours, Registers, Notaries, together with our Advocates & Atturney generall for our Court of Parliament, every man in his place & office are appointed & ordained to wait continually upon the imployment & administration of our said court, & the administration of justice supreme and capitall for our said Realme; which is a very laudable thing, commendable & necessary for us, our subjects, & the whole comonwealth of this our kingdome; in which our Court the rights and liberties of the Church of France, whereof we are the guardian and protectour, are preserved. And for this reason our said Court doth consist in part of Counsellours and Officers, which are Clergie men and Ecclesiasticall persons. And in consideration of the great, laudable, and commendable services of the said Chancelour, Presidents, Masters of Requests, Counsellours, Registers, Notaries, Advocates, and Atturney, they or others by their nomination by meanes of the intercession of our predecessours to the Prelates and other Patrons and Conferrers of benefices, have beene preferred unto and generally provided of Church livings, which the said Prelates or others

Councell of
Trent injuri-
ons to officers
of the Courts
of Parliaments
Sess. 24. c. 19.

Recueil des li-
bertez de l'Eg-
lise Gallicane.
chap. 31.
V. Molineum in
Regal. Cancell-
lar. de infr. re-
sign. num. 224.
& seq.
Le recueil des
Ordonnances de
Fontanon tom.
2. au titre De
l'indult.
Papon au re-
cueil d'Arrests
tit. des mandats
& indults.
Art. 1.

Presentations
made by kings.

the Patrons or bestowers of the same have freely conferred upon them, or have presented them unto the said Patrons in favour and consideration of us, and their owne great and commendable services as aforesaid. Which said Chancelour, Presidents, Masters of requests, Counsellours, Registers, Notaries, Advocates and Atturney, since our coming to the crowne, nor a long time before, have not had any such preferment upon our entreaty and request to the said Prelats, Patrons, and Collatours, as formerly they were wont to have. And for this reason the said Court hath, with our leave and licence, made a certaine roll wherein every one of them are presented and nominated, or have presented and nominated others in their stead, each one to some or other preferment belonging to you, or other the Collatours and Patrons of the benefices of our said Realme. And whereas our trusty and welbeloved Counsellour Mr. German Chartelier hath nominated Mr. German Chartelier his sonne unto one of your Collations and presentations, wee considering the continuall charge and imployment, the great paines and trouble of our said Chancelour, Presidents, Masters of request, and other Officers who are all noted men, learned and skilfull in the law: following the good and laudable customs of our ancestors, as also of the conferrers and patrons in our said Realme, we entreat and require you to give, present, and bestow upon the said Mr. German Chartelier for and in stead of our said Counsellour, whom hee for his part hath nominated in his place, the first benefice that shall be void within your disposall, collation, or presentation, as our said Counsellour shall require or cause you to bee required thereunto. Hoping that you will not make any deniall or difficulty of this our request, which is most just and reasonable, but will obey it: especially considering that our said Chancelour, Presidents, Masters of requests, Counsellours, and other Officers of our said Court, are imployed daily and in continuall trouble about the maintenance and defence of the rights and priviledges of the Churches of our said Realme, and the administration of justice to our said subjects; signifying unto you that you shall herein doe us such an acceptable favour, as nothing more: by meanes whereof we take you and your affaires into speciall recommendation. Given at Mascon the eighteenth day of August in the yeare of Grace 1503, and of our reigne the sixt; thus subscribed, By the King. In the presence of my Lord Cardinall D'Amboise Legat in France, and others. Robertet. Sealed with yellow wax, with the Kings broad Seale.

3 There is in the same Booke an exemplification of the privie letters which the Court of Parliament writ to the Prelates about those nominations: the tenour whereof is this. 'Reverend father in God, wee send greeting to you. 'Reverend father in God, it hath pleased the king to grant unto the Presidents, 'Counsellours, and other Officers of this Court, his letters and nomination to 'some benefices which are in the hands of some Conferours and Patrons of 'this Realme, and among others to our brother such a Counsellour of our said 'Soveraigne in this Court, to the benefices which are in your gift and disposall. Wherefore we most earnestly beseech you, that in obedience to the said 'letters, and in consideration of the deserts of our said brother, you would bestow upon him the first benefice that falls in your gift, being by him required 'thereunto. And in so doing you shall doe us a most acceptable courtesie, for 'which we shall take your affaires into speciall recommendation. Reverend 'Father in God, we beseech the blessed Sonne of God to grant you your desire. 'Written at Paris in the Parliament, under the seale thereof, the seventh day 'of September, the men celebrating the Kings Parliament. And this annotation is writ in the margeut, *Antiquitus fiebant aliter*. All this serves to shew the antiquity and possession of this right, which we could not but touch upon, considering, as it seemes, that this Councell was resolved to be revenged upon that venerable Senate, in hatred of that service which they have ever done to their Prince and whole Realme as oft as there was any danger of their prefer-
vation.

4 This Councell hath also gone about to diminish the power of other Parliaments and Courts of justice in *France* for as much as concerns excommunications, ordaining two things which are very prejudiciall to the temporall justice. First, 'That no excommunication nor citation be granted out by the Bishop upon the request or authority of the Magistrate. The next, 'That it shall not be lawfull for the secular Magistrate, whosoever he be, to prohibit or forbid the Ecclesiasticall Judge to excommunicate any man, or charge him to revoke the excommunication by him denounced. And that is, say they, because *this cognizance belongs not to Seculars, but to Ecclesiastiques*. This reacheth further than a man would think. It is the robbing of Parliaments of the meanes which they have to stop the course of those interdicts and excommunications which are thundered out against the Realme of *France* by the Popes when they are in their fury; to bridle the abuses of the Court of *Rome* and the Clergy of this Realme, who have sometime ventured so farre in this kinde that we could see nothing but confusion and disorder. But 'tis requisite we treat of these two points distinctly; for that which we are about to say concerns properly the later.

5 It is an ancient practice of our Judges Royall in *France* upon just occasion to grant out monitories against the plaintife or defendant, and to decree that they be proceeded against by Ecclesiasticall censures, and by excommunications: Their sentences were wont to bee executed by the Priests and other Churchmen without any difficulty. This power of the Judges Royall was, since the celebration of this Councell, confirmed by the twenty first article of the Ordinance of *Blois*: see here the words of it. *For the revelation of which crime the said Bishops, together with our Officers, may cause monitories to be published in all the parishes, at such time as they shall thinke proper and fit.* It is also confirm'd by infinite number of Arrests of Parliaments sent out at severall times; which regulate these licences of proceeding by excommunications, granted by under Judges. Besides, our Practitioners set us downe the very formes of them. Emperours and Kings have alwayes had the rule and managing of excommunications; and have sometimes used it themselves. The lawes of *Iustinian*, *Charles the Great*, *Charles the ninth*, and others, which are received even by the Popes themselves and other Clergy men, doe fully prove it. Now there is no question but the power which they have in this particular they might derive it upon the person of their Officers. The Clergy have alwayes suffered the use of this practice. It is true, that as in other things they have gone about to hooke in unto themselves the whole administration of justice, so have they endeavoured to doe the like in this case; not directly, but obliquely. For in proceeding to censures by virtue of the command of the Judge Royall, they have gone about to get the cognizance of the revelations made in consequence of those censures, by that meanes robbing the Judge of his jurisdiction.

6 As for the other point, where they say that the cognizance of censures belongs not to Secular Judges, the contrary is evident from those reasons which have beene urg'd already; whereto wee will adde use and practice. It is certaine that in all ages, secular Princes, their Officers and Magistrates, or other their Committees have judged of abuses, befalling in excommunications and interdicts: have stopped the unjust proceedings of Popes and other Ecclesiastiques; have bridled their too bold enterprizes, their passionate maledictions. The Courts Royall of this Kingdome were wont to grant the courtesie of an absolution by way of caution to the appellant as from abuse, whether Clergy man or lay (without any prejudice to the right of the parties) and compell the Bishop to endure it even by the seizure of his temporals. It is one of the liberties of the *Gallicane Church*. By an Arrest of the twelfth of December 1468,

Secular Magistrate power in excommunications.

a Papon au recueil d'Arrests tit. d'excommunications & cens. Eccles.
b Imbert. li. 1. des instit. fo. renf.

c Iustinian. in l. cum recta. in l. cum velimus. C. de sum. Trinitat. Et in novell. de sanctiss. Episc. c. 11
d Carolus Magnus Capit. lib. 1. cap. 36.

e Charles 9. en l'Ordon. d'Orleans art. 18. & en l'Ordon. de l'an 1571. art. 18. Glaber Radulphus hist. lib. 5. cap. ult. Papon au recueil d'arrests tit. d'appellation comme d'abus. art. 4. Recueil des libertez de l'eglise Gallican. art. 29.

Popes censures
injurious to
Lay Judges.

Choppin l. 2.
de sacra polit.
tit. 4.

Vide articulos
laicorum pro
positos per Pe-
trum de Cugne-
riū. qui exstant.
apud Ruseum
Post tractat. de
regaliis.

a De Cugneriū
art. 2.

b Idem art. 14.

c Art. 15.

d Art. 29.

e Art. 30.

f Art. 33. et 35.

g Art. 35.

h Art. 12.

i Art. 13.

k Art. 48.

l Art. 3.

m Art. 10.

n Art. 4.

o Art. 5.

p Art. 11.

q Art. 43.

r Art. 22.

s Art. 50.

t Art. 28.

granted at the instance of the Kings Attorney generall, and Mr. *Peter Charres* Regent Doctor in Divinity in the Vniversity of *Paris*, it was declared, that notwithstanding the interdict, which was denounced against the City and Dio- cesse of *Nevers* by virtue of certaine Bulls from the Pope, divine service should be there continued, and the Churchmen should bee compell'd to doe it by the distraining and seisure of their temporalls. By another in 1488 the Bull which at the instance of *Maximilian* of *Austria*, was thundered out by the Pope against the inhabitants of *Gant* and *Bruges*, then the King of *France* his subjects, was declared to bee abusive. It was necessary the secular Judges should take knowledge of such fulminations, considering the abuses were unsufferable.

7 They have plaid such reeks with these censures heretofore, that there was no case in which they were not us'd, right or wrong, to the great scandal and vexation of good men. By meanes of them the Iudges Royall were total- ly stripped of their jurisdiction. For they were excommunicated, because they would have had the cognizance of possession, procured by a Lay man for the holding of some of his Lands against a Clergy-man. As also for not admitting of an appeal put in to the Ecclesiasticall Iudge, from sentence given betwixt Lay men, in an action reall or personall; nor of an appeal put in from a command of an Arrest granted out against one Lay man, at the suit of another for some pecuniary debt. For not causing the thing which hee had robb'd or stolne, to bee restored to the thief, (after sentence was passed upon it, and it adjudg'd to him to whom it belonged after prooffe made thereof) under co- lour that hee is a Church-man, standing upon this qualitie after judgement had passed upon him. For not surrendring up a malefactor, affirming him- selfe to bee a Clergy-man, although hee had neither tonsure nor habit apper- taining to a Clerk, and hath liv'd as a Lay man all the dayes of his life. For not desisting from the cognizance of the cause of a Clerke married, or one that trades in Merchandise, or intermeddles in such like things. For seising upon the goods and lands of a Priest, at the suit of a Lay-man.

8 Moreover they behaved themselves so towards the Lay judges, as to their Sergeants and Varlets, constraining them by their censures, to execute their Or- dinances and obey their Decrees. For if an excommunicate person did not readily pay the summes of money expressed in the excommunication, the Lay- judge was submitted to the same censure, in case hee did not make means for the paiement: and if so bee he found no goods, hee was compell'd at his own charges, to go and appeare before the Officiall, to take an oath of his diligence. And in case a Clergy man had beene committed to prison by the Lay judge, either out of oversight or ignorance, though hee were surrendred to the Ec- clesiasticall Iudge upon the first demand, yet the Lay Iudge notwithstanding was held by the Canons for as good as excommunicate. They served them- selves also of the same censures against parties in suit, excommunicating some Lay men, that were summoned before them in causes not spirituall, for want of appearance; yea and that even after the default made upon a simple citati- on. Item for refusing to plead before them in causes real, and actions pro- ceeding from contracts with Ecclesiasticall persons. For not paying the sum set downe in a sentence upon the day therein prefixed, although by reason of his povertie the partie were not able to pay it. For bidding judgement in a Lay Court, about the demand of a widdow. For drawing those into the cause which live in Hospitals, Spittles, and houses Royal, and conventing them be- fore other Iudges: denying them such absolution as was necessarie, till such time as they had set an arbitrary fine upon them. Using also the like vexation to such witnesses as were summoned by them in causes brought before them, even although they were out of their jurisdiction. As also to such as dwelt in the same place with him whom they had excommunicated, sometime can- sing

sing all the inhabitants of a whole parish or village, both old and young to be cited before them, to goe and purge themselves at one or two severall places, of the participation and communion which they might have had with him, freeing such as would redeeme themselves by money from this labour. All which abuses and infinite more were represented to King *Philip de Valois* in the yeare 1329 by Mr. *Peter de Cugnieres* the Kings Counsellour, in presence of the Prelats of this Realme; who in their answers not only not deny them, but, which is more, defend them.

9 Conformable hereunto is the complaint made by the States of *Germanie* assembled at *Noremberg*, the yeare 1522. For they make remonstrance, That both at *Rome*, and all other places, many Christians are excommunicated by the Archbishops and Bishops, or their Commissaries for prophane causes, and dishonest gaine. That by this meanes many mens consciences are troubled, and those that are weak in faith are driven to dispaire: and at last are brought to the losse of soule, and body, and honour, and goods, contrary to all law both divine and humane. And for this cause they required, That none might be excommunicated but for the crime of manifest and convinced heresie. They complained also that to beare one excommunicate person company, the Ecclesiastical Judges would excommunicate ten or twelve of his neighbours, without any cause or offence: that they contrained his fellow-citizens to pay for him that was not able to pay for himselfe: as also for that, if a Priest happened accidentally, to be killed any where, all the towne or Citie was interdicted by reason of the murder. *Durant* Bishop of *Menda* saith, that in his time, In many places excommunications were thundred out for a six penny debt.

10 These abuses and such as these, of which wee have spoken elsewhere, did many times contraine Kings and Princes, and their Officers, to oppose themselves against them, & take them into their cognizance to restrain them. *Ludovicus Bavarus* was excommunicated by *Iohn* the twentieth second, because he had behaved himselfe as Emperour before hee was crowned by him. Whereupon his excommunication was declared to bee injult by an Imperiall Diet at *Francfort*. *Philip* the Faire was interdicted by *Boniface* the eight: the States of *France* did annull'd his excommunication. *Benner* the thirteenth hurld his thunderbolt against *Charles* the sixt: the Parliament of *Paris* together with all the Lords of the land, condemned his Bull, and the bearers of it. *Gregory* the fourteenth excommunicated the late King and the King now reigning: the Parliament of *Chaulons*, by an Arrest given out in June, 1591, did casse, repeal, and nullifie his Bulls, processees and excommunications, as abusive, scandalous, seditious, full of impostures, and made contrary to the holy Decrees, Canonick Constitutions, approved Councils, and the rights and liberties of the Gallicane Church: absolved those that were excommunicated by virtue thereof: and decreed they should be burn'd in the market place by the common hangman. The Parliament sitting at *Tours* did ordaine the like by an Arrest of the fift of August 1591. Furthermore declaring the said *Gregory*, who calls himselfe Pope the fourteenth of that name, an enemy to the peace, to the union of the Catholique Apostolique and Roman Church, to the King and State.

11 Seeing wee are gone so farre in this point of Excommunications, wee will speake one word of the demands which were put up at the Councell of *Trent* by the Emperour *Ferdinand*, by *Charles* the ninth, and the States of *Germany*. The Emperour demanded that there might be no proceeding to excommunication, but for mortall sin, or a publique offence. The King of *France*, That it might not be denounced upon every fault, nor for contumacie, but for some grievous sinne, and that after three admonitions. The States of *Germany*, That it might be only for open and convicted heresie. These demands were conformable to the Decrees of ancient Councils; as namely that of *Agatha*, and that

Abuses of ex-
communications.

u. Art. 37.

Vid Centum
gravamina
c. 34.

Cap. 25.

Cap. 36.

These Arrests
have beene of-
ten Printed,
and may be
found in the
fourth Tome
Du recueil de
l'histoire de la
ligue.

Natalis Comes
hist. lib. 14.
p. 298.
Idem lib. 13.
pag. 300.
Centum grava-
mina c. 34.
Can. Episcop.
Et Can. nullus
Sacerdotum in
of 21. 2. 3.

None to be excommunicate for triviall matters.

Histoire de Rheins l. 2 c. 5. Guilielm. Du rand. de Conc. Tit. 38. part. 2.

Marsil. Part. 2. cap. 13.

Petrus de Al. liaco in tra8. de reform. Eccles. considerat. 2. p. 205.

Nicholaus de Clemangis in lib. de ruina & reparat. Eccles. p. 46.

of *Auvergne*, which are Canonized in *Gratians Decree*: by virtue of which no man can be excommunicated upon light occasions: and that of *Rhemes* holden under Archbishop *Sonnace*, where it is said, *Let no man be lightly or rashly excommunicated.*

12 The like demand was made by *Durant* Bishop of *Mande* at the time of the Council of *Vienna*, to whom *Clement* the fifth had given in charge, to observe him all that stood in need of reformation. 'That no body (saith hee) be excommunicate but for mortall sinne; considering that anathema is a condemnation to eternall death; which ought not to be inflicted, save only upon such as are incorrigible, and not for pettie light matters. Which is not observed in the Church of *Rome*, in which even by the Delegates thereof these sentences are thundred out against Prelates and other persons for a very small matter.

13 *Marsilius* of *Padua* speaks likewise of them in this wise. 'But that which is most abominable of all, and very odious in the office of Church men, is that the Bishops of *Rome*, and others also, to enlarge their jurisdiction, and reape some most bale gaine by it, to the contempt of God, and prejudice of Princes, doe excommunicate as well Lay men as Clerks, and deprive them of the Sacraments of the Church; because they are either negligent or insufficient to discharge some pecuniarie debts, to the payment whereof within a certaine time, they stood civilly bound.

14 The Cardinall of *Cambray*, when hee speaks of the reformation of the Church in the time of the Councell of *Constance*, puts the multitude of excommunications among the number of such things as stood in need of reformation: Which (saith he) the Church of *Rome* hath imposed by her penall Constitutions, and especially by some new *Decretals*; and have thundred them out by their Collectours, to the scandall of many men: by whose example other Prelates doe cruelly smite poore people with excommunications, without any consideration; and that for light matters, as for debts: which must necessarily bee provided for, seeing it is against all right.

15 *Nicholas de Clemangis* in his tract of the ruine and reparation of the Church: Hence (saith he) those anathema's so oft repeated, which were not used in the time of our forefathers, but very seldome, and that in criminall causes, and abominable wickednesse: forasmuch as a man is hereby separated from the communion of the faithfull, and given up into the power of Satan. But at this present they have proceeded so farre as to use them ordinarily for very pettie matters, yea when there is no fault at all.

16 The Lawes and Constitutions of our Princes are conformable to the ancient Canons, and to all these demands. In the Capitulary of *Charles* the Great it is said, *That excommunications be not often used, nor without cause.* And in the Ordinance of *Orleans* that there bee no proceeding to them, but in case of crime and publique scandall. It is true that in another Ordinance made 1571, they are limited by the forme of the ancient Canons. But this is still the same, considering that by them there is no place for excommunications, Save for grievous faults. Wherein there is sufficient occasion of complaint against the Councell of *Trent*, which contrary to all antiquity allowes the proceedings to censures and monitions, for matters of no moment.

CHAP. IX.

Disposall of the goods of Religious persons. Purchases made by Mendicants. Leases of Ecclesiasticall meanes. Commutations of last wills and testaments.

I



His Councell would furthermore have all the goods which shal be purchased by religious persons, after they have made their profession, to bee taken from them and given to their superiour; that is to the Abbat or Abbess, to be incorporated to the Monastery. This derogates from the nineteenth Article of the Ordinance of Orleans, where there is one case which ought to have beene excepted. Namely when profession is made before the age of twenty five yeares by males, or twenty by maies: for then they may dispose of their portion left them by way of inheritance, already fallen unto them, or hereafter like to fall, either in a direct line or collaterall, to the use and behoofe of such of their kindred as they shall thinke fit; and not of the Monastery. And to this effect (the Ordinance addes) we have from henceforth declared them capable of inheriting and making testaments, the said profession or any rigour of law or custome to the contrary notwithstanding. These last words are added by reason of the generall custome of France, whereby all religious persons are incapable of inheriting. Since that time the Ordinance of Blois alter'd the time of possession, and reduc'd it to the age of sixteene yeares; yet alwaies retaining the same rule for as much as concernes successions.

2 The same Councell hath made two Decrees very unlike one to another. By the one It commands all Regulars, as well men as women, to compose and conforme their life to the rule whereof they make their profession; as the particular vow of Obedience, poverty, and chastity. By the other, It gives leave to Mendicants (except the Fryers of St. Francis, the Capuchins, and Fryers Minorites) to possesse immoveable goods, even to such as are prohibited by their Orders. According hereunto the States holden at Blois in the yeare 1576, Vpon the eighteenth of December came a Jacobite to preferre a petition, that according to the Councell of Trent, Mendicants might be allowed to possesse immoveables; but it was answered they would advise upon his petition by making a generall order for it.

3 It is a long time since they procured Bulls from Rome derogatory to their first rules and institutions which they call *Mare Magnum*; but they were never received in France. One of our French Doctours prayes to God that hee would take care that this great Sea become not the devils pond. The goodliest possessions are at this day in the hands of the Clergy; and that in such abundance that some great Doctours have beene of opinion that they ought to bee taken from them. And in very truth if they may be allowed to purchase, there is no doubt but within a very little time the Clergy wil get all into their hands, and will have all the laytie onely for renters and farmers of their goods. Howsoever notwithstanding all their dispensations they have in France beene alwayes kept to their ancient abstinence. And of this matter there is an Arrest of the Parliament of Paris in the Collection of Gallus given out upon the Vigils of

Whether religious persons may inherit.

Conc. Trid. Sess. 25. c. 2. § 16.

Ordon d'Orleans Art. 19.

Benedict. in re. pit. ca. Raynautius in verb. ut uxorem nom.

Adela. n. 220. Ordon. de Blois de l'an 1579.

Art. 28. Sess. 25. c. 1.

Sess. 25 c. 25.

See the collection of all that pass at the States of Blois de l'an 1576. p. 19.

Benedict. in cap. Raynautius in verb. in eod. test. relinq nu. 126.

Ioannes Gallus 9. 62.

V. yez Papon au recueil des Arrests Tit. des Religieux Mendicants Art. 3.

Religious persons incapable of temporall revenues.

of our Lady 1385 against the foure Orders of Mendicants, wherein it was said that the Provost of Paris did ill to judge as he did; *who had condemn'd the heires of Isabel de Bolayo to pay twenty pound Paris of yearely rent to every one of the said Orders, to bee received by the said Mendicants for certaine houses in Paris which she had given them, to have and to hold for them and their successours for ever. Their suit was declared irreceivable into the Court, and they condemned to pay charges.* Gallus gives this reason, Because such Donation was contrary to the substance of their Order. I have an ancient copie of the Arrests of this Parliament concerning the King and the temporall justice, where the fact is related otherwise, yet so as the substance is much alike. 'Betwixt the Fryers 'Mendicants plaintiffes, of the one partie, and *Isabel de Palais* inheretrix of 'Joan Panmer defendresse, on the other party. By an Arrest of the Court it 'was said that the Provost of Paris had not judged right, and the said *Isabel* 'did well to appeale; for as much as he had condemned her to pay and to deliver to each of the said two orders, (namely the Predicants and the Carmelites) twenty pound rent, given to them by legacy, together with the Improvements and arrerages which should be raised of it, and the charges. And 'had determin'd the contrary for the other two Orders, because they had not 'exhibited their titles. And it was said by the same Arrest that the said Mendicants ought not to be admitted in the suit which they commenced, every one 'of them for twenty pound rent given unto them by legacy by the said Joan. 'And the said Court did reserve unto it selfe the power of disposing of the said 'renew for the soule of the said Joan deceased. Pronounced the twenty 'fourth of March 1385. Amongst the Arrests, num. 28. In the same Collection I finde written; 'December the fift 1371, it was said that the *Augustine* Monkes should not possesse any immoveable goods. The sixt of Aprill '385 twas said that the Mendicants should not possesse any temporall goods, 'in the booke of the Counsell. And as for the priviledges granted by the Pope, hearke what the *Collection of the liberties of the Gallicane Church* saith of them: *The Pope cannot allow or dispence with any man for holding and possessing any goods within this Realme contrary to the lawes, statutes, or customes of the places, without leave and licence from the King.* This is further confirmed by an Arrest of Paris made in the yeare 1391, whereby a certaine Carmelite called Gratian was declared not to bee receiveable in a suit which he made for a certaine thing issuing out of an immoveable for the holding whereof hee was dispensed with by the Pope. They were also forbid to hold secular benefices and Ecclesiasticall dignities by the letters patents of Charles the sixt, bearing date the nineteenth of February 1413, notwithstanding the Popes dispensations.

4 The Council hath made a law concerning the farming out of Ecclesiasticall goods and lands, whereby such leases as are made for many years, and for payments before-hand, are declared not to bee valid, to the prejudice of successours. Commission is also granted to the Provinciaall Synods, or those whom they shall depute, to judge and declare invalid such leases of Ecclesiasticall goods as were made within this thirtie years, for a long time, or (as it is in some places) for nine and twentie yeares, or twice nine and twenty years. Whereupon it is urg'd in the first place, that it belongs to Kings and Emperours to make lawes and Ordinances about the alienation, or letting out of Ecclesiasticall goods, as they have alwaies done, in so much as all our books are full of examples in this kind. And what Popes and Councils tooke upon them in this regard, was by their toleration. In the second place, it doth not belong to a Council to nominate and chuse Iudges, for the deciding of controversies arising about such farmes and leases. Nor doth it belong to the Ecclesiasticall Iudges to take the cognizance of them, but to the secular. And so it hath alwaies beene accustomed in France, whereof there are an infinite number of Arrests given out in such cases.

Voyez Papon au recueil d'Arrests. tit. Des Religieux Mendians. art. 5. Recueil des libertez de l'Eglise Gallicane chap. 20. Papon au recueil des Arrests. tit. de Religieux Mendians art. 6. V. Ioannem Gallum quest. 244. Guil. Benedict. in cap. Raynulfus. in verb. uxoris. nom. Adela. num. 219. Voyez aussi les ordonn. Concil. Trid. Sess. 25. cap. 2.

Papon au recueil d'Arrests. tit. d'alienation Eccles. tit. 5. 6.

It is ordained by the sixt Chapter of the second Session of the same Council, that the commutation of last wils and testaments ought not to be admitted but upon just and necessarie causes. See this is very faire: but put case the Pope ordaine otherwise, then there is no remedy. For it is only said, *That the Bishops, as Delegates for the See Apostolique, shall take knowledge summarily, and extra iudicium, whether there have beene any error or false information.* They cannot therefore judge whether the cause bee lawfull or no. See here then a grievance common to all Christendome: Behold yet another more particular to France; which is that the Lay Judges are herein deprived of their jurisdiction, to whom it belongs to judge of the justice of the cause in matter of such commutations, excepting the case of conscience. See what is said in this point in the Collection of the liberties of the Gallicane Church, 'The Pope cannot convert any Legacies, though they be given to charitable uses, or to any other use, contrary to the will of the deceased; save only in such cases when the will cannot be formally observed, or where there is a necessitie of making such commutation: alwaies provided that in such cases it be equivalent to that which was ordained by the testament, or other disposall made by the last will of the deceased; the cognizance wherof notwithstanding belongs to the Lay Judge, except for the case of conscience. Now suppose the Pope chance to make any such commutations without a substantiall and lawfull cause, it belongs to the Court of Parliament to reforme them upon appeals as from abuse, which are wont to bee put up in such cases; who must have their hands tyed, if this Council be admitted.

Who may convert legacies.

CHAP. X.

Of the command laid upon Ecclesiasticall persons to receive this Councell: and of other grievances.

1



Another great prejudice is offered unto the Royall dignitie by this Councell, when it commands all Clergie men forthwith to receive in publique the Canons and Decrees thereof, and those to whom the care of Universities doth belong to effect the same, and bring it so about, as that Masters and Doctors, and others publickely teach what is contained in the Canons of it, and binde themselves by a solemne oath to the observation of this Decree. In this they take too much upon them, that they wold have all things put in execution without the Princes consent or privitie, and perhaps even against his will. It hath alwaies belonged to Kings and Emperours to approve the Canons and Decrees of Councils. Wee have proved it in the third Book by many plaine examples taken out of all antiquitie.

Wee wee will adde in behalf of France, that the Councell of Basil used another manner of respect towards our King, when at two severall times it sent forth Deputies, with expresse commission into this Kingdome to get their deliberations to bee received here: which it could not fully obaine, but some of them were rejected at that time when the Pragmaticke was making, as appears by the narration of it. And the Cardinals which came thither the

This Councel
cuts off all
hopes of union.

second time to get him to allow the deposition of *Engenius* the fourth, and the creation of *Felix* the fifth, in his place and stead, returned from thence without effecting any thing; as appears by the act of protestation set forth by King *Charles* the seventh, of which wee have spoken towards the beginning of the first Book. We say then that to give out such commands to Ecclesiasticall persons and Vniversities, is all one as to set up two Monarchies in *France*, and other Kingdomes. All this should bee referred to Kings and Princes; and they by their authoritie, after they have approved and allowed of the resolutions of a Councell, should cause them to bee put in execution and observed. The late king *Henry* the third, and the States of *France* assembled at *Blois* in the yeare 1579, knowing this very well, made certaine lawes concerning Ecclesiasticall discipline, in some sort conformable to these of the Councell of *Trent* in many matters, without making any mention of it. Whereby they give us to understand, that the proceedings of it displeased them, and that they would not receive the Decrees and Constitutions thereof.

3 But the worst is yet, that such as are refractorie must bee given up to the Pope; and in the meane time excommunicated. The Provinciall Councels also are alwaies bound to promise true obedience to him. All this tends only to the infeebling of the authoritie Royall, and the exalting of the Papall. O that God would unseele the eyes of the Princes and Monarchs of the earth, that they might see it clearly! Provinciall, and also Diocesane Synods are likewise bound publicely to anathematize and detest all the Heresies which are condemned by this Councell: which may ingender troubles in those places where two religions are tolerated. As also the prohibition made to Bishops that they shall not allow any to preach, but such as they know, and to aske Saint *Peters* advice thereupon, that so he may have occasion to send the trumpets of warre amongst them, which sound only such tunes as hee hath taught them. And there is no question but after the admission of the Councell, suite will be made for the abolishing of that Religion which is tolerated by the Edicts; considering that the Councell hath past the sentence of condemnation upon it, and that after the pronounciation of a sentence, it is necessarie to proceed to the execution of it. Besides, there is no more hope of agreement and reunion left; for those that have judgement given for their advantage, will be sure not to remit any thing of it, and the rest will never stand to such an unjust condemnation.

4 Towards the beginning of the first booke wee have spoken of the Embassage sent to King *Charles* the ninth, in behalfe of the Pope, the Emperour, the King of *Spain*, and the Duke of *Savoy*, for the receiving of this Councel, and we have made it appeare that the end of it was, they were faine to descend to intreaties. These were the effects and practices during the celebration of it. The Canons and Decrees thereof had no other aime but the bloud of Christians. The Lords of *Ferris* and *Pibrack* in the letter which they writ from *Venice* to King *Charles* the 9, dated upon the twenty sixth of November 1563, after they were retired from the Councel, and had protested against it, say amongst other things, That Pope *Pius* the fourth would have had the deliberations of the Councell to have bene subscribed unto by the Ambassadors of Kings and Princes, to constrain them to make warre upon such as should refuse them. And in their oration delivered towards the end of September in the same yeare, touching the point of Precedence against the King of *Spain*, they say, That the ancients, as Saint *Ambrose*, Saint *Austin*, and Saint *Chrysostome* did not proceed by such confutation these against the *Pelagians* and other heretiques; that they did not make Princes take armes against them, but laboured to reduce them from their errors by strength of reason, and holinesse of life.

5 Though

5 Though wee should not proceed to the drawing of swords, and displaying of our colours, yet must we at least make an underhand warre, and set up the Inquisition, which will prove as fine a piece of husbandrie in France as it hath done in Spain; and will not spare even those which were never suspected of Heresie. The example of the Low-Country men may be a lesson to us in this regard, upon whom after the admission of the Councell they would have thrust the Inquisition; whereupon there were great bickerings and oppositions even by the Catholiques themselves, as is apparant from those discourses which were then set out about it. This knife hath opened the veine which hath shed so much blood, and which in conclusion was the cause of this great reuolt. This Councell declares all to bee heretiques which follow the doctrine by it condemned, and doth anathematize them.

6 In the rules which were made by authoritie of this Councel concerning prohibited books, so many words as there are, so oft almost is there mention of the Inquisitors. Which gives us plainly to wit, that they are destined to be the executioners of this Councell. And when the Pope shall establish them, who shall say unto him, he ought not to do it, being he is made omnipotent? Besides, Inquisitors are now aduised only for Heretiques. I say, they would seeme to be for none but them. Where then shall they be rather established than where they are in the midst of us, namely in the Realme of France? For the mere admittance of this Councell, *ipso facto* makes all those heretiques, which have hithertowards contended that they are not so, and whom our Kings would not yet brand with the markes of such; as to bee accounted criminalls, and lie open to publique accusations, to bee intestable, infamous, incapable of honours, dignities, successions, and other such like things: yea which is most dangerous of all, to be burn'd. Now this would imply a contradiction to qualifie them for heretiques, and not give them this appellation withall. And consider whether there would be any want of good preachers to strut up upon this occasion, and cry out, *To the fire with the Heretique*. Which they dare not now doe when they are taken up with a *Sab judice* *lib est*. And they live in expectation when a free and lawfull Councell shall be celebrated.

7 The same Councell confirmeth all Papall Constitutions, and by consequent those which establish the Inquisition, whereof we have a great number, some of them in the Decretals, Extravagants, and Clementines; and the rest in the *Directorium Inquisitorum*, set forth by Nicholas Eymericus new printed at Rome, the year 1585, and dedicated to Gregory the thirteenth, containing a great many Bulls in behalfe of the Inquisition, published since Innocent the third till Gregory the thirteenth. As also those which excommunicate all favourers of heretiques, and those which suffer them to live amongst them. And indeed Gregory the thirteenth made this sense of them, when by his Bull intitled *Litera processus lecta die xix. domini*, which was thundred out in the year 1578, in the first Chapter thereof he anathematizeth *All Hussites, Wiclivites, Zuinglians, Calvinists, Huguenots*, and other heretiques, together with their concealers and favourers, and in generall all those which defend them. Which hath beene since reiterated in many severall Bulls of his successors. So as our Princes will have very much to doe to exempt themselves from their thunders, so long as they observe the Edicts of pacification, which they have made: admitting, as they doe, their subjects of both religions, to honours and dignities: taking them into their service, both at their table and in their chamber: letting them live under their protection and defence. Yea even so long as they continue in alliance and league with their neighbours, whether Calvinists or Lutherans.

8 Wee will say in the last place, That it will bee a hard matter to put any qualifications upon this Councell: Seeing that how many Articles, so many

This Councel is against all toleration of Protestants.

*Requête remon-
strance sur la
requesle pre-
sentee par la
noblesse a Ma-
dame de Parme
sur les incon-
ueniens rrou-
ués de l' in-
quisition imprimee
à Anuers, l' an
1566.*

*Vide indicem
librorum probi-
torum. & re-
gulas ibi positas
L. Manichæos.
L. Arrian. l. qui-
cunque l. cognos-
cunt l. quoni-
am C. de Hære-
tic. & Manich.
a Vide Cap.
Præsidentes &
ca. inquisitionis
de Hæretico in
6. Clement. 1.
2.3. Extravag.
1. & 3. de Har.
b Vide directo.
inquisitori. Ni-
colai Eymerici.
Item collection.
divers. consti-
tut part. 1. pag.
351 part. 2.
p. 116.*

*c Extat in col-
lectione diver-
sarum constitut.
& litterar.
Roman. Pontif.
excus Roma
ann. 1517.
in tert. part.
p. 72. Excom-
municamus &
anathematiza-
mus quoscunque
Vssuras, Viclevi-
tas,
Lutheranos,
Zuinglianos,
Calvinistas,
Vgonotos, Ana-
baptistas, Trini-
tarios ac omnes,
et alios singulos
alios hæreticos
ipsorumque
receptatores
& fautores, et
generaliter
quoslibet de sem.*

This Councell
dislik'd by Pa-
pists.

grievances almost; saving some few concerning Ecclesiastical discipline, which (as wee have said elsewhere) have beene received in *France* already. As for the rest, they tend all of them to the prejudices of Kings and Princes, and their subjects. The best qualification which can bee made of them, would, bee to raze them quite out. As for the Canons, although we never undertooke the defence of those that condemne them; yet wee shall say by the way, that though they bee indited upon them, yet it would trouble a bad Lawyer to cast them by them. The injustice and iniquitie of this Councell is such, that even good Catholiques themselves doe abhorre it.

¶ Wee have shewed already that the late King sufficiently condemn'd it: inasmuch as he by his edicts decreed otherwise in many particulars than it hath done. And as for the King our Sovereigne Prince now reigning; hee hath passed his word for the calling of a free Councell, to compose the differences in Religion. by his letters patents of the fourth of Julie 1591. Furthermore wee declare by these presents, conformably to our former declaration, protesting before the living God, that wee desire nothing so much as the Convocation of a holy and free Councel, or some notable assembly, sufficient to determine the differences in point of Religion. Hee therefore tacitly rejects this Councell. Wee have not the least doubt that hee gives backere a whit from this holy intention; or that hee goes about to choak the hopes of a so much desired reformation, after which all honest men have gaped so long in vaine. Hee hath no minde to accept what his predecessours have so constantlie rejected, and so justlie condemned. Though he would not reject it in consideration of others, yet hee will in regard of his owne interest, which cannot otherwise be preserved entire by any qualifications or restrictions. Nor have wee collected these grievances for any doubt wee make of his resolution; but to shew the impertinencie of that demand of admittance of it. And that such a stale and mustie messe may be no more brought up before our Kings: a dish which hath beene bak'd and boyl'd so often over, that it would bee no lesse noisome to the stomach, than distastfull to the palat.

MUSEVM
BRITAN-
NICVM

FINIS.

